THE DEPUTY CHAIRMAN: Sometimes. *...interruptions)...* Cell-phone did not work, perhaps *...interruptions)...*

THE CONSTITUTION (NINETY-FIFTH AMENDMENT) BILL. 2003

AND

THE CONSTITUTION (NINETY-SIXTH AMENDMENT) BILL, 2003

DR. ALLADI P. RAJKUMAR (Andhra Pradesh): Madam Deputy Chairperson, I thank you for giving me this opportunity. Madam, I honestly compliment the hon. Finance Minister. This is a very essential Bill. Whenever our Chief Minister Mr. Chandra Babu Naidu had visited Delhi, he requested the Finance Minister to enact this Bill. Madam, we know that in developing countries the service tax is collected promptly to boost their economy as well as development. So, with this Bill, the States will have a major share out of the service tax. I would request the Finance Minister that while framing the Bill, he should take into consideration this fact that a major share is given to the States so that they can boost up their development. This is the tax by which the States can have more financial arrangements. I would also like to request the Finance Minister that while framing the Bill, the small, petty technicians - like a person who goes to a house to repair a stove or to repair a refrigerator - should be exempted from the service tax. One aspect, which needs to be carefully ensured, JS that professionals like engineers, doctors, architects, chartered accountants, cost accountants, etc. are prompted to pay their service tax. You are advertising that income tax should be paid promptly and the Income Tax Department salutes the honest taxpayers. Like that if you advertise for the professionals who pay service tax, I think, the finances will boost up and we can also boost up our GDP nearly by 50 per cent. The proposed amendment facilitates reforms in the domestic trade system and widen the tax base of the States, when they consider the VAT. Lastly, I once again appeal to the Finance Minister that while framing this Bill, he may keep in mind the fact that the States get more share out of it. Madam, I welcome and support this Bill. Thank you.

SHRI NILOTPAL BASU (West Bengal): Madam, at the very outset, we appreciate the fact that the Government has brought this Constitution Amendment.

Madam, it is amply clear, as has been stated by the hon. Finance Minister, that, essentially, there are two inspirations for piloting this Constitutional Amendment. The first one is a rather technical one *i.e.,* inadequacy in terms of formulation in the Constitution. In a sense, there is no specific reference to the concept of 'Service Tax" under Article 268 and 270. Therefore, some reference, specifically, to the service tax was important so that we enable ourselves to go in for the subsequent legislation.

The second one, I think, is, also, basically, relating to the context in which we are trying to evolve our fiscal system, that is, the need of the States to augment their overall possibilities in terms of mobilisation of resources on taxation. We have seen, over the years, there is a 'disconnect' in terms of economic powers between the States and the Centre and the things have accentuated further. In a sense, earlier we had a situation where the States were not running with deficit. But, now, the Centre as well as the States run with a deficit. And, the combined fiscal deficit of both the Centre and the States has gone up very much. Actually, now, the financial position of the States is in a precarious situation. Therefore, we have to find out ways and means to augment the resources for the States. The overall situation is quite vulnerable. We have only a ratio of 8% for the tax-GDP in our country and, in this way, no developing country can, really, expect to stand up firmly in terms of a very adverse economic and financial involvement that a developing country like India finds itself in. So, it is very necessary to find new areas where we can have tax and contribute the same to the overall revenue collection of the Government. But, what I find inadequate is, as the hon. Finance Minister pointed out, this process had started in 1995. But the difficulty is: what is service tax? Right now, there is no authoritative definition or description of the very wide array of services that are being rendered in this country. I think, the key to an effective taxation and effective mobilisation of the resources is that how we can unleash the creativity everywhere because, still, 65 per cent of our people are living in rural areas and agriculture is our major means. Therefore, new agriculture-related services are coming up. Everyday, many new services are coming up. So, unless there is an attempt to, actually, draw up a proper definition of 'services' and listing of the kind of services that we have in the country which can be taxed, the problem will be there. It will help us in the subsequent legislation also and we will have a situation where we do not face any litigations. As we have seen, over the years, our tax collection process is mired in very severe

litigations. Therefore, to create that in a transparent way, to which Dr. Manmohan Singh referred and to which the hon. Minister has readily responded, this is one major step.

The third one is, Mr. Rajkumar was also pointing out that right now there is no sharing formula. There is some indication -- 8:5 ratio -- in the Eleventh Finance Commission Report. I think the Government of India also needs to apply its mind very seriously. Unless there is a greater amount of equity in terms of distribution and appropriation of how the States will appropriate these taxes, I think, we are going to create further problems for the States which are cash-starved.

Therefore, the Government of India should also apply its mind to this. Then, there is an indication in the Statement of Objects and Reasons of this Bill that the Government had presumed that the VAT would come into place by 1st April, which has already received a setback. We find slight diversions in the approach of the Government of India as well as the Empowered Committee. Therefore, some clarifications would be needed on this count, because until and unless we evolve certain kind of unanimity in the direction of maximising the mobilisation of resources, so that there is significant improvement in the tax-GDP ratio, our planning process is going to face a severe setback. If all these things are taken into consideration, we think, the subsequent legislative processes would be taken up speedily; and, on all these points, a consensual view, in the nation, would be worked out. Though it is a good beginning, it is still an inadequate beginning. With that, we also support this Amendment Bill.

SHRI N. JOTHI : Madam, I rise to oppose this Bill, not because I oppose service tax, but because there were instructions from our party leader, Madam Jayalalitha, to oppose this Bill for a simple reason that, after this amendment, only the Union of India would be able to levy this tax; and, the Union of India would graciously share some with the States. This is what, we would like to oppose. The power to levy service tax should be brought under the Concurrent List, not under the Union List alone. That is our suggestion. You bring" it under List II, and don't confine it to List I alone. That is why we are opposing it. We are not opposing the levy of service tax. We are opposing the idea to include it only in the Union List, and not in the Concurrent List, or, in the State List. I would like to seek a clarification on it, in the beginning itself.

Then, I would like to compare this legislation with the 'bodyline bowling', which had been introduced during the year 1935 by the England Captain, Constantine, with the help of a bowler, called, Laroo to terrorise the opponents. The service tax is sought to be levied by the Union of India against the goods being sold in the States, which are already in doldrums. Years have passed by since Independence. During the period of Jawaharlal Nehru, the States used to be very strong. State leaders were also very strong. Somehow some deviation took place from late 60s onwards that the State should never be strong enough; there should not be any State which is strong enough, everything should be centralized. What is centralization? You are seeing it here. It is a bureaucratic attitude, a bureaucratic regime. This is what is happening. Who is answerable to the people? The Central Government is not directly answerable to the people. It is the State Government which is answerable to the people. The States are already reeling under the financial crisis, especially after the implementation of the Fifth Pay Commission. I would give you an example from the State of Tamil Nadu. Ninety-one per cent of the State receipts are being given as salaries to the employees. So far as the welfare measures for the public are concerned, which are so many, and which are advanced as compared to many other States -- kindly excuse me for saying this --we have to depend upon the gratis of the Central Government, the grants from the Central Government. And, whenever the Chief Ministers' Conference is convened, it is we who fight. This is a fight, that we are continuing to wage. I will come to the other Chief Ministers; cornering every power in the Centre is not advisable. Now that 23 Parties are running the Government, there may be some occasions when it would not be possible to run the Government also. That occasion may come; the GOD may test us. It may come. But, then, who will take care of the law and order situation in India? The State Governments have to take care, and for that, they need funds. This is the reason why we are opposing it. I will further proceed to say that the Government of India, by introducing this Bill, and by maintaining exclusive monopoly on the service tax, is only deviating from the procedure that is being followed. If you look at the list and the items in it, our forefathers had thought that sales should be, generally, considered as a State subject. And only when inter-State sales takes place, the levy of Central tax will come into play. It is all a minor match up. So, sales tax is, predominantly, the subject-matter of the State. But, slowly, it is now being sought to be grabbed by the Central Government. It is to be noted that according to this amendment, the power to levy taxes on sale or purchase

of goods -- Entry 54 of List II of the Seventh Schedule -- which is already existing with the States, is now sought to be ignored because whenever sale or purchase takes place, the tax is being levied. Service tax cannot be levied without sales taking place. So, service tax could be only a natural concept of, or, the species of the genesis of the sales tax. It cannot have a separate existence. So, respecting the views and sentiments of our forefathers who framed the Constitution, it should be rightly placed with the State Governments, if not place it in the Concurrent List. I am only appealing for this. This is the point that we are trying to put forward. The power to levy tax on services should, legitimately, be in the domain of the State Government only. I have heard what the Expert Committees have suggested on this. My information, which, I am also emboldened to say, is an authentic information, is that these Expert Committees have recommended the service tax to be levied only by the State Governments and not by the Central Government. If any committee report empowers only the Central Government, kindly be good enough to handover that report to my State, or, to me. As a Member of this House, I would like to see that report. My authentic information is, those committees have recommended that States should be empowered to levy service tax. Sir, there is a catch in the words of 'sharing graciously' with the State Governments. I think a stage has come where it should be stopped. There should be mutual respect. This mutual respect of the Centre and the States is now being slowly taken away. This is what I understand. This is my view about the working of our Federal system.

It may also be noted that the Expert Committees have argued for the State level VAT, which incorporates the State level service tax also. I am given to understand that this is the position. So, it will be appropriate for the State also to levy the tax and not the Centre alone.

Sir, I would like to further say this. You are already enjoying the great benefit of excise duty by Entry 84, List I. The excise duty, is an exclusive domain of yours -- the Central Government, and, thereafter, it shares a paltry sum with the State Governments. Already the Finance Commissions have taken a deviation from the Constitutional working system stating that the advanced States, the developed States, need not be encouraged further, which is contrary to the concept of the Constitution, and which is also troubling my State, Tamil Nadu. These are all the factors why we are opposing it. It is not that we want to oppose for opposition sake. Our opposition is based on real aspects. So, kindly consider this. The Bill, in

its present form, empowers the Government of India alone with the power to levy tax on services. The States have no role to play and no power to levy taxes. It would be an unfortunate development in Centre-State relationships, and, especially, fiscal relations. It is well known that the Government of India has retained with itself all the major services and proposes to give a few crumbs alone to the States. Even now, it is a closely guarded secret, how much will be given to the States, what is the percentage which the Centre may "graciously" intend to give to the States? what are the items which you are allocating to the States? That will be intriguing. The legislation may come later. The legislation will tell us what is already being exercised in excise duty matters. Unless States are good. *(Time-bell)* Madam, I am the lone person opposing this Bill. So, I may be given further time.

THE DEPUTY CHAIRMAN: "Lone person opposing the Bill " does not mean that you will speak for the whole day.

SHRI N. JOTHI: Madam, I want to make a few more points. If we compare the head with the Central Government or the heart with the Central Government, head or heart alone being good is not sufficient. The legs should also be good; lungs also should be good; stomach also should be good; so, everything should be good. So, the State Governments should also be good in their fiscal system because they are answerable to the public when election comes. It is not the Central Government only which is answerable to the public *...{Interruptions)...* I am really wondering, I am not a party to the ruling party, I am not a member of the ruling party, but I am really wondering at why this kind of things, such as excise duty on powerlooms and this kind of tax Bill are chosen during election year, I do not understand. Anyway, it is for them to decide, I am not here to advocate all this.I am not a member in the NDA.

AN HON MEMBER: But, you are a supporting partner.

SHRI N, JOTHI: No; I am not supporting. I am opposing today, visibly. It is rather Samajwadi Party which is supporting; it is not opposing. The AIADMK is opposing. Visibly, we are opposing. A whip has been issued to us that we should be present and vote. This is a situation we are having now. So, I will only, genuinely, appeal to the Finance Minister and it is not too late, kindly bring it under the Concurrent List. Let us also turn alongwith you and with other Members of this House. Sir, further I want to submit the share of the service sector is now growing considerably

on par with other identifiable items for levy of tax. Today, it is nearly 50 per cent of the Gross State Domestic Product. So, we have reached to that heights. This is a sector which will also grow rapidly in future. We are identifying one after another, the areas where service tax could be levied. The relative share of the service sector will thus become much higher than what is available as on this date. To deny the States the power to levy and identify the issues, -- I think, I am repeating again, it may not be good. States are not enemies of the Centre. Days have come where a reorientation should take place to empower the State Governments, which was there immediately after Independence, and they should be made stronger. The Central Government has got a vast empire, which is not able to control, except with the help of the officers. What kind of officers are they? Even after retirement they want the same car to be retained, the same position to be retained, and the same house to be retained. So, thousands of posts are now available after retirement for them. I think I am not undermining the capacity of the Finance Minister, but I only say the officers' regime of the Central Government is more predominant than the public participation, as in the case of the State Governments. Time has come when we should revamp the whole system and we should think on these matters. I appeal to you, Sir, and time is not too late, you can include this, you can add only one along with the List-I. That is all. Now, it is indicated as List-I. You add one more mark with it, that's all, as List II State List and List-Ill, Concurrent List. If it is added, the problem can be solved easily. We are crying at you everytime. We are bothering you every time. Your botheration can also be solved by bringing it with the Concurrent List. With this, I oppose this Bill for the limited purpose of including it exclusively in the Central List. Thank you.

THE DEPUTY CHAIRMAN: I think, by opposing, you took more time, than you would have done by supporting it. Now, it is one minute to 1 o'clock. We can adjourn the House for lunch, and at 2 o'clock we will take this matter. The House is adjourned for lunch.

The House then adjourned for lunch at one of the clock.

TheTHouse re-assembled after lunch at three minutes past two of the clock,
.THE VICE-CHAIRMAN (SHRI RAMA SHANKER KAUSHIK) in the Chair.

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) **:** पचानवेवां संविधान संशोधन विधेयक**,** 2003 के ऊपर चर्चा जारी हैं । माननीय श्री विरूम्भी ।

SHRI S. VIDUTHALAI VIRUMBI (Tamil Nadu): Mr. Vice-Chairman, Sir, the Constitution (95lh Amendment) Bill has been brought before us for our consideration. Sir, by way of this amendment, a new Entry 92(c) is going to be incorporated in the Constitution in List I of the Seventh Schedule as well as Article 268A is going to be inserted in the Constitution. Sir, in recent years, the growth in the service sector has been tremendous. As the information technology developed, the economy activities also have increased; and also the risk for life is increasing. Service sector has been enlarged, by way of information technology, communication, banking, insurance, etc. It actually plays an important role, in the sense, that out of the total Gross Domestic Product, the service sector alone accounts for more than 48 per cent. Sir, the tax on services has been introduced in the Budget some eight years ago. I think, it was introduced in the Budget of 1994-95. Then it became effective from July 1994. It has to be ratified by the State Legislatures. When I say 'it has to be ratified', I mean the service tax. This amendment is introduced here invoking Entry 97. Entry 97 of the Union List empowers the Central Government in the residual taxation matters. If you go into the making of the Constitution, you will see that Pandit Nehru put a Resolution in which he wanted to leave the residuary powers only with the States. But at the time of passing the Resolution, it had taken a different turn. After Pakistan was separated from the Indian sub-continent, the two-nation theory came into effect, Thereby the residual powers automatically gone with the Central Government. Utilising that provision, now it has been brought before us. Sir, for example, this year Rs.8000 crores to Rs. 10,000 crores will be collected from service sector -- at least Rs.8000 crores. Out of that, nearly Rs.5000 odd crores will go for the Centre and less than Rs.3000 crores will go for the States because the recommendation of the Eleventh Finance Commission was like that. I don't know how the Twelfth Finance Commission will react in this regard. At present, the Centre-State ratio with regard to sharing of service tax is 5:3. That is the recommendation of the Eleventh Finance Commission. I feel, to get ratification from States, the ratio should be 3:5 with regard to Centre and States -- it should be *vice versa.* It means, the hon. Finance Minister will get easy ratification from the State Legislatures. I would also like to say, as the hon. Finance Minister knows, States only can be the effective collecting agency in this regard. The States have got inelastic resources mobilisation. The sales tax and the purchase tax are under Entry 54 -- if my memory is right. That source of revenue is very inelastic. They cannot go on putting that. But the elastic source of income has gone with the

Centre. Of course, you do want to mitigate the sufferings of the States and you have done something towards that, the debt-swap system is one such measure. After the introduction of VAT, what would be the position, particuJarly in this service sector? Instead of taking it for granted under Entry 97 of the Union List, I request you to take it as a test case to see if it benefits the States. If it benefits States - since I feel that Centre-States are actually two sides of the same coin, the federal structure - it can be done. The States are the effective collecting agency. I hope, you yourself will come forward to depute this responsibility on the shoulders of the States. I hope so. Therefore, first of all, the service tax should be in a horizontal manner; it should not be in a vertical manner. You can widen the base, but not the percentage of the tax. Already, the tax has been enhanced from 5 per cent to 8 per cent. If you add 10 per cent or 12 per cent, the service providers are not going to take the responsibility to pay the tax from their own pockets. It is something unusual. Naturally, whatever the tax, either from the State Government or the Central Government, the service providers pass on the burden to the consumers only. Therefore, instead of thinking about the vertical angle, just think about the horizontal angle. Take this Constitution amendment as a test case and see whether the States are benefited, and then, according to the results, take necessary action. With these words, I conclude. Thank you.

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) **:** श्री संजय निरूपम।

श्री एकनाथ के. ठाकुर (महाराष्ट्र)**:** सर**,** संजय निरूपम जी मौजूद नहीं हैं। हमारी पार्टी का समय हैं इसलिए मैं उनके स्थान पर बोलना चाहता हूं।

SHRI EKANATH K. THAKUR : Thank you, Sir, for the opportunity. Sir, I welcome this very important legislation. It is a great and historic coincidence that during the tenure of our esteemed Finance Minister, very important legislations in the field of taxation and fiscal responsibility are coming before this House. The Fiscal and Budget Management Responsibility Bill, 2003 has been passed by the Lok Sabha and it will be before us. The VAT legislation is on the anvil. And we have now, this amendment to direct taxation, amendment to the Constitution, taxing the services. No one will ever question the need to tax services sector, because in the total GDP, the contribution of services is nearly 50 per cent and because our tax GDP ratio languished at around 10%. The agriculture sector, which contributes less than 25 per cent now, has been phased out

of taxation, and, for very valid reasons. And in the near future, there is no possibility of taxing agriculture. We, as a party, have been always urging that taxation of agriculture is a thought which should be remote from the mind of any Finance Minister of any Government of India. Now, the industrial sector, corporate sector is contributing more, but at the same time, the mortality has increased so far as large corporates are concerned. And the mortality of small corporates is phenomenal. Human deaths are reported, but small-scale industries' deaths are not reported. In my own State, I believe, more than 50,000 small-scale industries are on the verge of extinction. Therefore, the streams of revenue, which were there earlier, have, in one way, to be augmented essential. And unless, we create and generate new schemes of revenue, we will not be able to discharge our fiscal responsibilities; we will not be able to run the affairs of the nation efficiently and viably. So, there is every logic for taxation of Services. Having said this, Sir, I would urge upon the hon. Finance Minister to consider certain aspects of our development. Our esteemed, Dr. Manmohan Singh, was very right this morning when he said that we have prematurely grown into a services economy. That means, the growth of the three sectors, the agricultural sector, the industrial sector and the service sector -- tertiary sector, if you may call it -- are not.in tandem; services have advanced far more during the last one decade in particular. It is a happy occurrence, and occurrence where, in certain sectors, we are not only assuming the leadership of Asia, but leadership of the world, as we do it in software.

At the same time, the service taxation has to be seen with the dangers that it entails. I would like to invite the attention of the hon. Finance Minister to certain sectors. Our great, noble laureate, Dr. Amartya Sen, in his wisdom, which is accepted by the world, has said, "Education and health should be priorities of any developing nation." We have a vision which was envisaged by our esteemed President that "by 2020, we will become a developed nation." But today, it must be admitted on all hands, that we are not a developed nation today. If we are not a developed nation, we can ignore the advice of Dr. Amartya Sen only to our peril. Education and health are two social sectors, which must be given priority; they must be protected; the Government must invest there, and should not tax those sectors.

Sir, in the recent Finance Bill, there is taxation on coaching classes; there is taxation on computer classes. Sir, we want to become the software capital of the world; we desire to maintain our leadership. Today,

half a million of the Indian students are going to computer classes; they are paying Rs.20,000/-. Rs.25,000/- to institutions like NUT and several others. Today, we are thinking of putting 8 per cent tax on them. A boy who does not have a job is trying to improve his prospects. He has to pay additional money! How does he collect this money, Rs.20,000/-? Sir, sometimes, his father is not in a position to pay. He goes to his uncle, a distant cousin, a distant brother, a friend, a friend's father; he begs, borrows and steals. Some times he works part time. That is how he pays his fees, Sir. Now, they are talking of academies, IAS academies and others, where they want to introduce taxation! What is that boy doing? That boy knows that there are no jobs there. He knows, "Unless I compete for IAS, I will not get anything." Sir, 3,00,000 candidates compete for about 500-800 jobs in IAS. Out of 1,000, only one person or one boy is selected. Therefore, he has to prepare. He comes to you, he comes to me, he goes to his neighbours, here and there, to pay Rs. 10,000/-, Rs.20,000/-, Rs.25,000/- for going to the classes. And, then, you will charge another Rs.1,000/- or more than Rs.1,000/-, *i.e.* eight per cent. Is it easy for him to pay the taxes? Is he earning now? Then Several things are said about coaching classes. I would like to invite your attention as to why the boys go to coaching classes. They go to schools and colleges, but our educational system is so imperfect that a boy passes his seventh standard, but does not acquire the basic concept of addition, subtraction, division and multiplication. Sir, I can bring thousands and thousands of such boys before you, yes Sir. Those who do not have the basic concept of addition, subtraction pass seventh standard! You want to become a computer-led nation, a software technology nation. Unless he is good at arithmetic, how will he become a computer or software professional? It is, in a sense, an essential input. In Maharashtra, around eleven lakh candidates appear in SSC examinations, and five lakh and fifty thousands fail every year. They fail in arithmetic, and they fail in English. Sir, we have a whole army of non-matriculates who are looking for jobs! And the non-matriculates have become a burden on our economy because they do not do anything; they are not certified for anything, they do not appear for further exams, they feel frustrated. But if the same boys and girls are going for additional coaching, additional tuitions, additional training, and, as I said, they beg, borrow and steal, and, somehow, enter those classrooms in order to acquire the fundamentals clearly and strengthen basic concepts, how are you justified in levying a tax on education? On the one hand, you are giving concessions to parents who do not have any income. They earn Rs.10.000/- and say that on one

boy and one girl they can spend upto Rs,24,000! On the other hand, we are charging the trainee, the boy who goes to the classroom! Therefore, Sir, in my opinion, till 2020, no services related to education should be taxed. The second thing is agriculture. I come from a district in Maharashtra, that is, Sindhudurg. Sir, you will be surprised to know that 30,000 boys and girls who have done diploma in agriculture are unemployed today in this district. I am a Member from there. Being a Member of Parliament, they come to me with petitions. I tell them, "Why don't you start some consjltancy in agriculture? There are so many herbal plants. Why don't you develop their strains?". Some of them have really started developing them. Now, these unemployed boys and girls are forming groups of 10 to 50 and they are giving some consultancy service to the farmers. We have *got Amla, Jamun,* etc. They are teaching farmers how to clinically extract the juice of *Amla;* they are teaching them how to clinically extract the juice of *Jamun,* which is good for diabetics. Some of these people are givinci services in biotechnology. Biotechnology is going to be in the vanguard of economic development of this country. These boys are agricultural diploma holders and they are doing consultancy in their field. Now, are we going to charge tax from these unemployed persons when their group-income comes in tax bracket-while they offer some essential service? They collect knowledge and experience when they practice consultancy. I, for one, feel that no services related to biotechnology and agriculture or improvement in agriculture be taxed till 2020. These are the two important aieas. Anybody who is giving service in biotechnology must not be taxed. Any service in relation to education must not be taxed. *(Time-bell)...*

Sir, yot have given me the signal. I respect your signal. But I want to say only one more thing. I run a rural hospital where there are 40 beds. It is a charity hospital. I charge only Rs.8 per day. But the doctor you consult cha-ge you Rs.30. Now, doctors are not available in the rural areas. . I have to close the hospital for four years. This is not an individual case. There an many rural hospitals. There are rural para-medicos who are giving servics. The people cannot afford all these services. Even Rs.20 or Rs.30 are out of the reach of the poor people. When the doctor will have to pay tax, he has to collect it from the people. Therefore, any service relating to health in rural areas must not be taxed and this should not happen, at least, up to 2020. After 2020, when you have fair income and savings, equity and justice as enshrined in the Constitution, when everyone is able to fend for himself, I have no objection to your taxing education,

biotechnology, rural health, etc. Merely looking at it to-day as an additional source of income, going in for a omnibus legislation or having an umbrella type of legislation and opening up the whole system should not be there till then. Fifty per cent of GDP is from service. *(Time-bell)..* Sir, I am closing. This is my last point. Now, on 50 per cent of bur GDP, on 50 per cent of our national income, you tax 8 per cent. All the services that constitute 50 per cent of the GDP can't be taxed under the canopy of this legislation in one go. It will take 8 or 10 years. You will have some safeguards. There may be some exceptions. But when it covers all services, it may cover 25 per cent of the GDP. Then, 8 per cent tax on 25 per cent of the GDP would mean the prices will go up by 2 per cent across the board. Now we have to see this aspect also. If tax has to be there, there should be equity. There has to be concern for those sectors which are sectors of growth, sectors of national concern. I know our hon. Finance Minister is a sensitive person. I know he has the interest of the people at heart. I believe these four sectors, agriculture, biotechnology, health and education must be exempt from service tax up to 2020. This is my only appeal. With this entreaty, I thank you.

SHRI FALI S. NARIMAN (Nominated): Thank you, Mr. Vice-Chairman.' I heartily welcome this new Bill. Nothing is more certain in this world than, as I say, death and taxes. No State, particularly a welfare State, can survive without the levy and collection of taxes. It is said that it is the price we pay for civilisation. But, our problem in India and many developing nations is that we have no tax-paying culture. The culture is of tax evasion. Tax avoidance may be permissible, but tax evasion is criminal and the impression that is gathered is that the big fish always get away. Therefore, Sir, a culture of tax compliance will be better served if responsible people in the country are convinced that the moneys they pay towards taxes are appropriately and properly spent, and, for that reason, I welcome the Fiscal Management Bill, which the hon. Finance Minister has introduced and which has just been passed by the Lok Sabha and which probably will come up in this House as well. Sir, I welcome in principle, a service tax. But for a service tax, I believe, more than any other tax, there has to be a service tax plan and that plan must involve not only persons who require finance, but economists, sociologists, statisticians to determine how much money do we need, which service sectors can be utilised for raising the service tax. These are very important points.

The point, just made by the hon. Member who preceded me,

namely, in what health sectors should we, or, should we not resist the urge to levy taxes, particularly, when we only have 3.5 per cent of our GDP which we spend on health and education. In the U.N. Human Development Index 2002 we are way down below at No. 126 and our object must be that, as a country, not India as a Union of States, but India as a nation State, India must come up to that level, and, therefore, we must pay more attention to health and education. Therefore, a service tax plan is of the essence.

Now, Sir, it has been suggested that taxes should be imposed also by the States. I am against it for the reason that the scheme of our Constitution has a very well knit plan. In the Union List, there are specified taxes with a residual power of legislation for imposing taxes. In the State List, there are specific taxes but no residual power for taxes. And, in the Concurrent List, there are no taxes at all except for Stamp Duty. There is no tax that can be levied under the Concurrent List. Therefore, any tax under the Concurrent List is contrary to the scheme of the Constitution.

Secondly, Sir, what is most important, is that tax on sale and purchase of goods, which is the exclusive power of the States and which has been the exclusive power of the States, has been extended by a Constitutional Amendment which came in 1982, namely, Article 366, Clause 29(A) which define taxes on sale and purchase of goods to be extended, to include lot of other items, including a tax on a transfer of rights to use goods for consideration.' And this led to a problem, which is the subject of litigation today in many High Courts and in the Supreme Court, namely, that States taxing the same transaction as the sale of goods in respect of which a tax was also levied as service tax under Entry 97 by the Centre, under each and every Finance Act. Now, Sir, the importance of this legislation is that this will put an end to this dichotomy, because there is a new Entry now, 92 (c) and the moment 92(c) comes into force and becomes law, States are deprived of any power to levy a tax as a service tax at all. And the important thing that the hon. Finance Minister must guard against is that the same transaction should not under this law be subject to a levy of tax on sale of goods as well as a tax on service because this dichotomy must be removed. I have a word to say on principles of appropriation. This is a very important concept. The hon. Leader of the Opposition mentioned that the law should be publicised, etc. It should be done quickly; but it should also be done with some public comments. One of the principles, I would respectfully suggest, for distribution of service tax among States, should not

be the population of States, but the performance of States; the performance of a State in the eyes of the Union; as to how this State would perform in future. We have already got a guideline in Part IV of our Constitution. Has the State complied with the duties which are enjoined upon every single State under Part IV? Unfortunately, because of an article in the Constitution which says that none of these articles will be enforceable in any court, we have all ignored them. Nobody is bothered about Part IV of the Constitution at all. We are only bothered about our Fundamental Rights. It is good to bother about our Fundamental Rights. We need Fundamental Rights. We can enforce them. But the Directive Principles given in Part IV cannot be enforced. If they cannot be enforced, more so for this House, more so for every State, more so for the Finance Minister when he devises a law with regard to appropriation; as to whether the States are complying at all with the Principles of Part IV because it is only when we comply with the Directive Principles of Part IV, the nation as a whole, India as a Union of States, will come out of this morass of being No. 124 on the UN Human Development Index 2002 and proceed further. Without that, I am afraid, we will still remain what we are. Therefore, we have to have a tax plan. We have to consider which sectors are to be taxed with regard to service tax. One sector which I can think of is that we are now conferring a new right, dual citizenship right on people who are already citizens of other countries, but who are NRIs in about eight to nine countries. We are giving them a very important right, right to be regarded as citizens of this country notwithstanding that they are citizens of a foreign State, without a right to vote. It is a very, very valuable right. Why can't that be treated as a service which is taxed? People can afford it. Most of them can afford it. I am sure, they would love to do it. Therefore, I would respectfully submit that these are various facets which have to be considered by the hon. Finance Minister. I welcome this Bill wholeheartedly. It can only be levied by the Centre. It cannot be levied by the States. *...(Interruptions)...*

SHRI N. JOTHI: Sir, I am on a point of order. *...(Interruptions)...* When he concludes his speech, I would raise a point of order.

SHRI FALI S. NARIMAN: Sir, I support this Bill wholeheartedly. Thank you.

SHRI N. JOTHI: Sir, I am on a point of order.

उपसभाध्यक्ष (श्री रमा शंकर कौशिक)**:** मैं इसे एलाउ नहीं करता। माननीय गया सिंह।

SHRI N. JOTHI: *

उपसभाध्यक्ष (श्री रमा शंकर कौशिक)**:** नहीं-नहीं। माननीय गया सिंह।

श्री गया सिंह (बिहार)**:** माननीय उपसभाध्यक्ष महोदय, हम इस 95वें सविंधान संशोधन विधेयक पर चर्चा कर रहे हैं। अभी कई माननीय सदस्यो ने यहां अपनी राय रखी हैं और मोटे तौर पर मैं भी उससे सहमत हूं, सिर्फ मेरे कुछ एप्रेहेंशस हैं, शक हैं जिनको मैं आपके सामने रखना चाहता हूं।

महोदय, अगर हम देश में लगने वाले टैक्स की गिनती करने लगे तो देखेंगे कि इंसान के पैदा होने से लेकर मरने तक उसे टैक्स ही टैक्स देने की बात होती हैं। अभी एक माननीय सदस्य कह रहे थे कि हमारा देश एक कल्याणकारी राज्य हैं,लेकिन उस कल्याणकारी योजना भी होनी चाहिए। हम टैक्स लेते हैं क्योंकि पैसा चाहिए लेकिन जब उस को फालतू खर्च करते हैं तो उस के संबंध में भी कभी अमेंडमेंट लाया जाना चाहिए कि हम अपने खर्च कैसे कम करें और जो हमारी आमदनी का मिसयूज हो रहा हैं, उसको कैसे रोका जाय। कभी एकाध बिल ऐसा भी लाइए संविधान में संशोधन करने के लिए क्योंकि हम सिर्फ टैक्स बढ़ाते ही चले जा रहे हैं।आप यह सर्विस टैक्स किस पर लगाएंगे, इसकी इस बिल में डिटेल नहीं हैं, वह डिटेंल आप बाद में करेंगे। मैं आपका ध्यान इस ओर दिलाना चाहता हूं कि उदारीकरण होने के बाद विदेशों से जो सामान आएंगे, जो माल आएंगे उस पर तो आप टैक्स घटाते चले जा रहे हैं और जो इस देश में छोटे छोटे उद्योग बना रहे हैं, जो लोग राज्यों में ऐसे छोटे उघोग चला रहे हैं, उनमे ज्यादातर तो बंद हो रहे हैं, आप यह सर्विस टैक्स लगाकर उन पर आगे एक नया बोझ देंगे। यह बोझ आम लोगों पर ही पड़ेगा क्योंकि वे अपने घर से तो कोई देने वाले हैं या नहीं। आप जितनी तरह के टैक्स लगाते हैं, पहले टैक्स लगाएं, अब यह नया टैक्स लगाने जा रहे हैं, इससे आने वाले दिनों में, खासतौर से मैं आपको याद दिलाना चाहता हूं कि स्वदेशी जागरण मंच जो आपका हैं, आपके परिवार का एक अंग भी हैं, रोज वह स्वदेशी के लिए चिल्ला रहा हैं, लेकिन आ रहा हैं विदेशी और फिर सर्विस टैक्स के लगाने के बाद उस स्वदेशी मंच वालों का क्या होगा? सभी राज्यों में जो स्वदेशी को आगे बढ़ाना चाहते हैं, उनके सामने इससे संकट आने वाला हैं।

महोदय, हमको शक हैं कि यह सर्विस टैक्स कर्मचारियों पर भी लगेगा। संगठित और असंगठित जो उद्योग हैं, उनके कर्मचारियों, अधिकारियों पर भी लगेगा क्योंकि टैक्स का दायरा जब सामने आएगा तो उनको भी उस दायरे में आप लाएंगे। हमारा आग्रह हैं कि माननीय मंत्री जी इसकी सफाई करें और उसको प्रोटेक्ट करें कि जो लोग सर्विस में हैं संगठित या अंसगाठित क्षेत्र में, उन पर सर्विस टैक्स का यह बोझ डायरेक्टली नहीं पड़ेगा। इतना तो एसोरेन्स आप इस हाउस में दीजिए क्योंकि आपने बजट में इतना सारा टैक्स तो लगा ही दिया हैं कि उनके पास कुछ बचेगा ही नहीं अन्यथा इसके खिलाफ संगठनों को आप बड़े आंदोलन करने का

* Not recorded.

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मौका देंगे और उससे राज्यों के अंदर अस्थिरता ही पैदा होगी। यह सर्विस टैक्स इतना आसान नहीं हैं।

महोदय, आपने इसके लिए राज्यों को एजेन्सी बनाया हैं।अभी एक माननीय सदस्य ने ठीक कहा हैं कि आप राज्यों को हिस्सा कितना दे रहे हैं। इसका ज्यादा हिस्सा तो आप लेंगे और थोड़ा सा हिस्सा उनको देंगे, लेकिन कलेक्शन करने की जिम्मेदारी उनकी होगी। जैसे अभी पूरे देश में आप एक कर लगा रहे थे, उसके बारे में कल दूसरे हाऊस में आपने खुद ही कहा है कि 9 राज्य अभी तैयार हुए हैं, 16 राज्य तैयार नहीं हुए और उसको डेफर करते जा रहे हैं। वैसे ही आप यह संविधान संशोधन पास तो करा लेंगे, लेकिन अगर इसमें साफ साफ नहीं होगा कि यह सर्विस टैक्स किन लोगों पर लगेगा, अगर इसकी आरे आप ध्यान नहीं देंगे तो आने वाले दिनों इसमें भी आपके सामने अलग अलग राज्यों से विरोध शुरू होगा और आपको इसे स्थगित करना पड़ेगा, लागू करना मुश्किल होगा।

इसीलिए इस शक और संदेह से साथ मैं समझता हूं कि माननीय मंत्री जी को इसके बारे में लोगों के सामने साफ साफ कहना होगा। इतनी बात कहते हुए मैं अपनी बात समाप्त करता हूं। धन्यवाद।

उपसभाध्यक्ष (श्री रमा शंकर कौशिक) **:** माननीय सदस्य श्री एन.जोती की जो टिप्पणी नोमीनेट मैम्बर की तरफ दी गई थी, वह रिकार्ड में नहीं जाएगी। माननीय बागड़ोदिया जी।

SHRI SANTOSH BAGRODIA (Rajasthan): Mr. Vice-Chairman, Sir, to begin with, I would like to say that I support this Constitution (Ninety-fifth Amendment) Bill, 2003. It is a very simple Bill. It is just an enabling provision, through an amendment of the Vllth Schedule, with the addition of Entry 92C - Tax on Services. What I want to say is that, as it is, the Government is quite powerful. As my friends have said, there are all kinds of taxes that one has to pay from one's birth to one's death. You want to be enabled to have more taxes. You want to be enabled to widen your taxation activity. All right, I have no objection. You widen it as much as you want and, even more, because it appears that nowadays the Government is there not to serve the people, but to tax the people. This is the situation that is being faced by ordinary citizens. Why has this situation arisen? Why do you want this enabling provision? Why do you want to increase your tax-net? You want it because your tax rates have reached the saturation point. You increased the tax rates so high that tax evasion became the order of the day. You had to bring the rates down. That was one of the reasons. The other was that your expenses went up and up. Mr. Minister, you have yourself been talking about the Fiscal Responsibility and Budget Management Bill. Why? This Government wants to bring forward a'Bill even for managing the Budgetl You are free to manage it.

Nobody is stopping you from doing that. But we need a Bill for every activity. We need a Bill for fiscal responsibility and so on. Anyway, I appreciate the proposed Bill because it will be applicable all over the country. You have said that the Bill puts an additional responsibility on the Government to achieve it in a fixed time-frame. Yes, you do need, a Bill for that. Then, you have also mentioned that originally the Bill has proposed to reduce the revenue and fiscal deficit by 0.5 per cent of the GDP annually. Nobody is stopping you from doing that. Whether the Bill is there or not, you can reduce your revenue and fiscal deficits. You have also mentioned that you have to bring down the fiscal deficit to 2 per cent of the GDP, and eliminate the revenue deficit by 2005-2006. This sounds extremely good. I wish we achieved it. The hon. Minister has also mentioned about taking appropriate measures for reducing the fiscal and revenue deficit, about eliminating revenue deficit by 2007-2008, and then about building up revenue surplus. I will be the happiest person if we are able to build revenue surplus. All of us, who are sitting in this House today, will still be around, either here in this Parliament or outside. And we would like to see that by 2007-2008 we are able to have revenue surplus. I found that normally the concept of Government budgeting was that you first decided how much was going to be the expenditure, and then you located the resources. It wasn't that you cut the cloth to your size. You first found out how much was it going to cost you for the whole year and then you tried to find the resources. When you follow this concept, the result is that the resources are always less than what you really need; so, you have deficits. Year after year, the deficit has been increasing by leaps and bounds. So, this was a State subject. You want to bring it to the Union List now. I fully agree with Nariman Saheb that it should be a Central subject so that there is uniformity all over the country. Otherwise, things will go haywire. After all, it is one, united India. Let there be a system where we have just one tax rate. Wherever you live in India, you pay the same tax rate. We shouldn't have different tax rates in different States. It should not be such a situation that a doctor pays less if he is in Tamil Nadu, and he pays more if he is in Delhi. It should be same everywhere. Now, I am sure, the whole purpose of this exercise is that in the next Budget you are going to introduce service tax in a big way. Why? That is because the industrial production has been going down; industries are closing down; trade is going down; and because of these, there is no tax collection. Every year, our tax collection is going down; I am talking in percentage terms. It is for this reason, you have to think of other methods, that is, service tax. Sir, I hope, you will appreciate

that any tax of any kind will, definitely, add to the cost. For example, a doctor is charging Rs.500 for a visit, and if you add eight per cent, he will charge Rs.540. The patient will pay this Rs.540. I don't mind if whatever tax collected is used properly. What is the whole system of taxation about? I believe, take the tax from the people who can afford to pay and spend it for the poor people. Is it happening? The entire tax is going into administration. There is nothing left for development. I hope this will not happen because we will have, probably, surplus by 2007-08 because we don't want to spend anything on roads; we don't want to spend anything on health and all industries are being privatised. All activities are being privatised. So, no Budget will be required for that. Obviously, you will have plenty of surpluses left. If you have any schemes for the benefit of the poor and it is spent on them, directly, not that 50 per cent or more than that again is spent only on administration of that budgeted amount, then, I will be too happy that the people who can afford pay taxes.

Sir, I will also request that when we have the legislation... *(Time-bell)* This is the last point, basically. Before we decide to legislate, whenever, either in the next Budget, I don't know, maybe, for various political reasons, you may not bring it in the next Budget. If you don't bring it next time, you may not get a chance, I don't know. But, even if you get a chance, as my colleague suggested, there should be a big national debate on this. All the professionals in this field should be involved in it. We should also understand their side of the story. What is happening today? Just to cover more people in the income-tax net, you have given six criteria. If you have a mobile phone, then you should be an income-tax payee. You cannot have a mobile phone, unless you have PAN number. On the one hand, you want to extend it to the villages, you want to give it to the farmers; on the other, they cannot have it because they don't have the PAN number. The PAN number will not be given by the Income-tax authorities because they are not equipped to give it. For opening a bank account, you need PAN number. Even for opening a small bank account, you need PAN number. Similarly, please don't bring in a legislation, like the VAT, which you will not be able to implement properly. Why did we have to stop it halfway through? I am not going into the merits of VAT, but we had to stop it because we were not ready to implement it. We just come to the Parliament with proposals and then we withdraw it. We withdraw it because we come half-prepared, half-baked.

Sir, I want to mention one more thing. You said that you are going to come forward with a new legislation. In our country, there are electricians and plumbers who are not organised. I hope, you don't cover them in your net. There are small lawyers, not like our good friends here. These small lawyers, below a particular fee, do a lot of good service; they do a lot of free service. I hope, you don't tax on that free service also. There are doctors, Homoeopathy doctors who are really serving the poor people. There are Ayurvedic doctors, Nature-care doctors whose fees are really very, very low. I hope, you don't cover them. There are chartered accountants. They become chartered accountants after studying for long years. Nowadays, five years after graduation, I should say, half of his life is spent. On an average, half of the life of an Indian is spent in becoming a chartered accountant. After that he takes five to six years to establish himself. So, I hope you will exempt them from any kind of taxation, at least, for five years after they start their practice. There were some recommendations by the Expert Committee. It will be appreciated if you could kindly clarify those recommendations on this subject. Thank you.

SHRI JASWANT SINGH: Mr. Vice-Chairman, Sir, I am very grateful to the hon. Members for the views that they have expressed. This is an important piece of legislation. I am gratified, Sir, that I have received the support of all sections of the House and in one strengthened voice all sections of the House have supported this legislation. . I will briefly refer to some of the issues that were touched upon by the hon. the Leader of the Opposition. Yes, Sir/ there is a mismatch. It is an interesting observation as to why the service industry in India should have advanced so far ahead of, for example, manufacturing, because the normal growth of service industry will follow manufacturing and thereafter. But, to a non-economist like me - and I have no potential in a sense to debate this issue with a distinguished economist as the Leader of the Opposition is - it is very interesting that India is as an example because having missed the industrial revolution, because we were a subject nation, and the wealth of India was looted and was taken away, the Industrial Revolution was missed, yet at the same time, we have caught by the forelock the whole change that is sweeping the globe with the knowledge industry.

[THE DEPUTY CHAIRMAN IN THE CHAIR]

Why is this happening? Why, for example, without our advances or the normal some manufacturing industrialisation to come on to the service sector, How is that India has done it? It is very interesting. I frankly do

not have the answer as to why we have done it or how we have reached. The factor, the objective factor is that we are here today and in fact, a number of people comment that in the years to come, India is likely to be the service sector capital of the world. I do not aspire to that because India's economic growth can simply not be based only on the service industry or the services. But there is, nevertheless such an observation made, Now, the other mismatch which really is worthy of reflection because that has resulted in other difficulties in the management of the economy, and the mismatch is that the reform programme that we have set in motion, that reform programme is far ahead in other sectors, but, for example, in the financial sector or the in the taxation sector, the reform programme is ahead of the reforms in these sectors. These are some of the mismatches that exist in our economy. We cannot correct them overnight. We will have to proceed apace and correcting them This is a legislation that I have really inherited from the Leader of the Opposition. He is the pioneer of this measure because in the Budget of 1994-95, he introduced the service tax. I was somewhat surprise when Members of this own Party have dissented with the introduction of the service tax. But that is a different matter altogether. We are here moving in this direction and we will be introducing the service tax. But the second point that he made about adequate preparation for introducing service tax in the country is eminently right. I entirely agree. Some hon. Members have found fault with the VAT. And, because of inadequate preparation, therefore, VAT has not been started. I beg to differ, because, for VAT, discussions and preparations have been going on for the last five years. It is not that as if this year alone VAT issue came up. So, for the last five years, we have been endeavouring to do it. Step-by-step we are moving in this direction. Some difficulties have arisen. The Hon. Members who raised this are not here. So, therefore, I do not refer to that issue just now. Yes, of course, the Chairman of the Empowered Committee met me and we will be clarifying the position, by and large, in this regard. A number of hon. Members have spoken when the Service Tax is finally introduced. The small service providers must be kept out of its purview. I think this is self-evident. If you look at the nature of the tax, it is nobody's intention that a plumber or electrician or carpenter, who comes to house to carry out some repairs, become liable to service tax. The tax in itself will have the annual turnover level beyond which the tax wilf become applicable, as also, the services. This is, of course, an enabling provision in the Constitution. And, we will, hereafter, certainly, have it circulated, if not, actually, circulated for public

3.00 p.m.

opinion, which has a very different connotation in a Parliamentary term, will elicit the views from as large a community of the concerned as possible. The hon. Leader of the Opposition suggested that the views and suggestions be obtained. Yes; we, will certainly, obtain it. This Constitution Amendment Bill itself will now be circulated to the mandatory members of the States of the Union who will have to approve this Amendment before it becomes law. So, we have time before which we do it and we will do needful in this regard.

There was also a point made by hon. Mr. Jothi about the Concurrent List. The issue is not depriving the States of anything which is their right or rightful due. The issue really is of enabling greater tax collections to the States. This is not a measure that will deprive the States. This, in fact, is a measure that will add to the revenues of the States. Having a service tax on the Concurrent List has certain difficulties, as I attempted to share my views with the hon. Member. For example, if we have the right to levy tax on the States, in principle, I have no difficulty. The States are just as capable. But, there are practical difficulties in this regard and that is why the entire arrangement of the Constitution has been structured, as the eminent jurist, Mr. Nariman, pointed out, in a particular manner. For example, this right were available with the States - and, say, it is the right of insurance - State "A" might levy 10 per cent and State "B" might levy 40 per cent on insurance. It is entirely possible. Also, there are certain States of the Union where a particular service might be totally non-existent and some States might benefit by the existence of a wide variety of services in their territories. Another State might not so be benefited. It is, therefore, mandatory and the duty of the Union Government to arrive at as uniformed structure of taxation as possible. Therefore, when introducing the Service Tax, we will have a situation in which the right to levy tax will be with the Central Government but the right to collection will, of course, be with the States. Now, it is entirely possible that when we have the Bill proper - because, it .is in the Bill that we will have all these details - certain services will have to be left. But the point is, do we share the tax from the services, or, do we share the services? This has to be decided upon. And, it is entirely possible that in some cases it will be more practical to leave certain services altogether under the domain of the State; and, in some cases, it would be more 8
appropriate to share taxes. But these are the details that would
be part of the Bill, which will follow. And,

there is no doubt that it would go through quite extensive process of consultation. But I do assure the hon. Member that the consequences of all this are certainly going to lead to further accrual of revenue resources to the States. It is a very simple calculation. Today, fifty per cent of the GDP of the country is from services; 25 odd per cent is from the agriculture; and roughly 25 per cent is from the manufacturing. Agriculture is out of taxation. In manufacturing also, we have many exemptions, including small-scale industries, etc. Only a small part of the manufacturing is, currently, taxed. We have barely started to address the whole 50 per cent margin of these services. And, in this 50 per cent, we are beginning with the proposition that the services must be shared between the States and the Centre. I think, that is the aspect that the hon. Members must please appreciate. What we are doing in the Finance Ministry in this very large percentage of the GDP - which is half of the GDP, which we are now beginning to bring into taxation the structure in a much more purposeful manner - is, we are starting by saying that the States must also share this not only the existing proportion, but in the proportion that we will determine, now. Therefore, for any hon. Member to have any apprehension in his mind that this is an attack on the rights of the States of any kind, to my knowledge and understanding, is entirely misplaced. Hon. Member, Shri Vlrumbi, is not here. About ratio and the benefits to the States, I have really said what I have said. And if explain all that again, that would be a repetition.

My hon. friend from Shiv Sena, an eminent jurist, raised a point about evasion, avoidance, about a service tax plan and criteria. I think, we treat 'evasion' and 'avoidance' like a game in India. It is played. Whatever you can avoid, you will and it is very difficult to correct all this. But there is one thing that the Ministry of Finance can do. And, that is, the whole culture of taxation must not be really expropriatory; it must not be adversarial. I mean, do not collect tax from the citizens or the assesses in a fashion of usurping something from the citizens or in an adversarial fashion. So, the culture has to change. The culture - I do admit - has from the beginning been rather imperial. As the collecting authorities are Collectors, the whole word 'Collector' is a part of some imperial authority that must take from the citizen. This culture has to be changed. And, it has changed over the last fifty years. It must change further. That is why I keep emphasising on simple structure, which is easy-to-understand and easy-to-implement, where there is a least amount of interface between the assesses and the officers, and the least amount of discretionary authority to the officers. These are the methods that we would be following. माननीय गया

सिंह जी ने एग्जम्पशन इत्यादि की बात कही हैं । यह तो अभी मात्र एक सवैंधानिक प्रावधान हैं । आगे जब इस पर चर्चा होगी और अन्य डिटेल आएंगी तब इसमें यह हो सकता हैं । Sir, I am very grateful to all the hon. Members for the advice they have given. This is a step forward in the path of taxation reforms in the country. This is a path on which we are set; the Government is set to move, and we will continue to proceed down this path.

THE DEPUTY CHAIRMAN: Now, we will take up the Constitution (Ninety-sixth) Amendment Bill, 2003. After that, we will have the voting when the reply is over.

श्री संजय निरूपम(महाराष्ट्र)**:** उपसभापति महोदया, मैं सर्विस टैक्स से जुड़ा हुआ विषय याद दिलाना चाहता हूं । मंत्री महोदय मैं एक बार आपके सामने प्रजेन्टेशन भी लेकर आया था । मैं बताना चाहता हूं कि एक ही सैक्टर में दो या तीन स्टेज पर सर्विस देने से जुड़े जुए जो लोग हैं उन सबसे अलग-अलग सर्विस टैक्स लिया जाता है । इसकी बजाय जो इसका वोल्यूम आफ बिजनेस है अगर इसके ऊपर आप फिक्स कर देंगे, आप जो भी पांच परसेंट या आठ परसेंट टैक्स लगाना चाहते हैं, इसे कर देंगे तो इसे मेन्टेन कर सकेंगे । जैसे मैंने एक एग्जाम्पल दिया कि कोई चैनल ओनर हैं,प्रोड्यसूर है, प्रोड्यूसर हायर करता है टेकनीशियन को, टैकनीशियन जो सर्विस दे रहा है उस पर पाचं परसेंट देना पड़ता है, प्रोड्यूसर जो दे रहा है उस पर पांच परसेंट देना पड़ता है, पांच परसेंट का भी आठ परसेंट हो गया , उसके बाद ब्राडकास्टर को भी पांच परसेंट देना पड़ता है इस प्रकार कुल मिलकार देखा जाए वॉल्यूम ऑफ बिजनेस में से दस परसेंट सर्विस टैक्स चला जाता है । क्या कोई ऐसी व्यवस्था हो सकती है। कि पांच परसेंट या आठ परसेंट जो भी आपने तय किया है उतना ही टैक्स इस ओवर पूरे धंधे से निकाला जाएं ?

श्री जसवंत सिंह : उपसभापति महोदया,यह अपने आप में बहुत ही उचित प्रश्न हैं । टैक्स व्यवस्था में हमारा प्रयत्न रहता है कि टैक्स का केसकेडिंग इफेक्ट न हों । एक ही टैक्स की कड़ी, यह चेन एक के बाद इस प्रकार से न हो । जब टैक्स बिल के साथ अन्य डिटेल आएंगी तो यह हमारा प्रयत्न रहेगा । यह तो अभी एक संविधान का संशोधन मात्र हैं । इसके बाद जब सर्विस टैक्स बिल आएगा । वह राज्यों में जाएगा । राज्य अपनी स्वीकृति देंगे । उसके बाद हम सर्विस टैक्स बिल लाएंगे । उस सर्विस बिल पर संसद चर्चा करेगी । इसे हम जितना ज्यादा चर्चा के लिए रख सकते हैं, रखेंगे ताकि ये सारे सुझाव दिए जा सकें ।

THE DEPUTY CHAIRMAN: Now, we will take up the Constitution (Ninety-sixth) Amendment Bill, 2003. Two hours have been allocated for this. Somebody had asked me when the voting would take place. If we take two hours, or, two and a half hours at the most...

SHRI PRANAB MUKHERJEE (West Bengal) : Madam, if we can finish this debate by one-and-a-half hour, it will be better because we have told the Members to be here by 4.30 p.m. Specially, we have to keep in

view that this is practically meant for the Lok Sabha and the Legislative Assemblies. We are not, as Members of Rajya Sabha, affected by it. Therefore, my submission to you would be, if the House agrees, we can conclude the debate including the reply by 4.30 p.m., and voting can take place at 4.30 p.m.

THE DEPUTY CHAIRMAN: I will be very happy, but the Parties should reduce the number of their speakers. There are three speakers from the Congress Party.

SHRI PRANAB«MUKHERJEE: From our side, I will speak. At best, there will be one more speaker, but it will depend on the time available.

THE DEPUTY CHAIRMAN: There are thirty-two minutes.

SHRI PRANAB MUKHERJEE: Madam, I am talking about the total time. We reduce it by half-an-hour. Now, it is 3.10, so, if we can finish it by 4.30 p.m., it will take only one hour and ninety minutes for the entire thing.

THE DEPUTY CHAIRMAN: Okay. Now, we take up the Constitution (Ninety-sixth) Amendment Bill, 2003.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): Madam, I beg to move:

> "That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration.'

Madam, the Eighty-Fourth Amendment to the Constitution in the year 2001 was necessitated by the fact that the earlier amendment in 1973, and the constitution of the Delimitation Commission under the Act, which was of 1973, had envisaged that the earlier delimitation would continue till the year 2000, and, thereafter, a fresh arrangement had to be made. When the Eighty Fourth Amendment was taken up, even though the Census for 2001 was on, it was anticipated that the figures of the Census would be available only after three to four years. As a result of which, the Census could form a basis for delimitation only when the Census figures are published. It was then the considered opinion of this House that the last published Census, being of 1991, should really be the basis for the delimitation. As a result of that, we could complete the delimitation quite quickly. Thereafter, the Delimitation Act, 2002, was passed, and a Delimitation Commission, which comprises of Justice Kuldip Singh, a retired Judge of the Supreme Court,

as the Chairperson, and "Mr. V.V. Tandon as a nominee of the Election Commission... and one member from the State Section Authorities, who would change from State to State, has since been functioning. After functioning for a little while, the Delimitation Commission also made a suggestion to the Government to consider whether it would be appropriate to wait for some more time and wait for the figures of the 2001 Census to be available and the delimitation to be done on the basis of 2001 Census. The reason given by them for this was that this delimitation would continue till the year 2026, that is, the delimitation which is done now. A fresh delimitation would be required only for the elections if they are held at a normal time difference for 2031. Since almost for 28-30 years this delimitation would be applicable, then an endeavour could be made to do it as per the latest figures of 2001 and not as per the 1991 figures which they felt would be a little outdated. Some representations were also made by the hon. Members from across the various political parties. The Government on the 13th of March had held an All-Party meeting where views were expressed by all political parties and there was a larger consensus building up, if not absolute unanimity, that we could, perhaps, wait for the 1991 figures to be published and then complete the delimitation process. Madam, I have found out that the delimitation figures on the 2001 Census would, probably, be available by September or October this year, that is, after about 3-4 months and delimitation would be then completed on the basis of those figures. Presently also, provisional figures for 2001 are available though the exact break up of the Scheduled Castes and Scheduled Tribes, in the provisional figures, is not there. So, the Delimitation Commission would continue to undertake its exercise within their own establishment, on the basis of 2001 provisional figures and would start the exercise of consultation with the associate members after the final figures are published by September-October, 2003. One question which has also been raised on several occasions by members of various political parties, MPs and others was with regard to involvement of the associate members in the functioning of the Delimitation Commission itself. The views of those Members were brought to the notice of the Commission orally and in writing and the view of all the political parties as also the Government was that except for having a right to vote, the associate members should be involved at all stages, including at the stage of the preparation of the draft proposal itself. The Delimitation Commission accepted that suggestion and has conveyed its response in writing which I have circulated among the Presidents of all politicial parties. Madam, it is anticipated that with the

passage of this Constitutional amendment, some amendments of a nominal nature would be required in the Delimitation Act of 2002 also,' wherever the numerical 1991 appears, we will, by change of law, have to make it into 2001. And, thereafter, the delimitation exercise could commence afresh and an endeavour would be made. I have spoken to the Delimitation Commission. They have also assured me that an endeavour would be made thereafter to complete the delimitation process, as quickly as possible. With these few words, Madam, I commend this Bill for consideration of this hon. House.

The question was proposed.

SHRI PRANAB MUKHERJEE : Madam, Deputy Chairperson, I thank you for giving me this opportunity to make my brief observations on the proposed Constitution amendment. As I mentioned, this is going to affect our colleagues in the other House and the Members of the State Legislative Assemblies. As we undertook this exercise after long 30 years, naturally, many problems arose which were not aforeseen at the time of the passage of the 84th amendment of the Constitution, wherein, it was decided that we should pin the base year as 1991. After its passage - hopefully, it will receive the required majority in this House, as it has received in the other House - the whole process could be relooked with the experiences which we have gathered after the delimitation process was initiated by the Delimitation Commission. The changes which have taken place during these 30 years are not only in terms of the number of years but also in other terms. The demographic change, shifting of the population, rapid urbanisation of the population, etc, have changed the shape and character of the Lok Sabha constituencies. Earlier, when the delimitation used to take place at the interval of every ten years, the situation was not so overwhelmingly changing, as it has happened on this occasion. As the hon. Minister has pointed out, necessary consequential amendments in the Delimitation Act will also be brought at an appropriate stage. I would also like to suggest to him that while, as certain guidelines have been issued and those are well-drafted guidelines, which will help the associate Members who are the Members of the political parties representing the Lok Sabha and the various State Assemblies and who knows where the shoe pinches, as they will be able to make their contribution, the Delimitation Commission should also give a serious thought to it. The first question would remain about the freezing the number of Members, which we have already committed in the earlier Bill and which we are going to have. But, in this

connection, apart from freezing the number of the Members, there are certain other distortions which have taken place, and the whole objective was to have as many Members per constituency, per territorial constituency, as possible and also maintaining the geographical contiguity. If these two basic principles are to be observed, then, in between, certain .distortions may also creep in. I will give you one example. In the present exercise, a band has been provided that 10 per cent variation, either on the upper side, or, on the lower side, should be acceptable. Now, take a Lok Sabha constituency. If a Lok Sabha constituency has one-and-a-half million voters, then 10 per cent band, this way or that way, means a difference of almost 300,000, that means, if I can go up to 10 per cent on the upper side and electoral may be of sixteen-and-a-half lakhs, if we can apply the 10 per cent band on the lower side, a Lok Sabha constituency may have a total electoral of thirteen-and-a-half lakh, but between these two constituencies, the difference is not 10 per cent, but much more. Therefore, whether the Delimitation Commission can consider with the cooperation of the associate Members as to how to reduce this gap because the basic principle of the delimitation is to have equal number of voters, as far as practicable and having the geographical contiguity.

Coming to the question of geographical contiguity, I would like to say that, sometimes, there is a tendency of keeping a very small chicken neck as the geographical contiguity. And, it has been the experiences of the Lok Sabha Members and persons like us who unsuccessfully tried to enter into the other House that when we go to our constituency, we find that we have to cross 2-3 constituencies to reach a particular point. Geographical contiguity is there because there is a strenuous linkage between these constituencies. But, it should be, as far as possible, a more prominen' geographical contiguity than just to have a proforma of geographica contiguity, and, in this connection, serious exercise could be made, and, foi that, the time was needed so that the Delimitation Commission and also th€ Associate Members can apply their mind. Now-a-days, in a Lok SabhE constituency, we are having more than 2-3 districts. Now, whether It is possible to confine to one district; it is simply not possible; whether it is possible not to have more than two districts, at best, in some cases, it can be three. There will be certain technical problems which will have to be resolved in cases of certain newly created States like Jharkhand. But, I am sure, the Delimitation Commission under the chairmanship of a retired judge of the Supreme Court will take care of it. But here, a lot of political inputs are needed than merely having a juridical approach in respect of this. In

this connection, I would also like to draw the attention of the House to another distortion which has taken place. Now the practice is and the constitutional provision is, if a new State is created after the delimitation, then the delimitation of the constituencies is undertaken by the Election Commission themselves. They are the inputs available from the political components. It means, the associate Members are not there. As it has happened in the past, it has also happened in the case of three newly-created States and more and more the demands are coming for the creation of the new States. In that process, Madam Deputy Chairperson, we find that there were territorial distortions. For example, take the case of Maharashtra, which is a highly populous State. It has 288 elected Members in the State Legislative Assembly, but it has 48 Lok Sabha Members. Comparing it with Madhya Pradesh, which has much lesser population, having 40 Lok Sabha seats, but the Assembly Constituencies are more than 320, is it possible to remove these distortions? I understand the problem, which North-Eastern States will have where the population is 'much less or in island constituencies like Andaman and Lakshadweep. But so far as the main provinces and main States are concerned, not only within the States but all over, at least, those States, there should be the parity and this type of serious distortion should be avoided. Originally, if you look at the first delimitation of 1962, there you will find that as far as possible it was about 7 Assembly Members and the ratio of 7 Assembly Members to one Lok Sabha constituency. But, nowadays, we are having four. One is Maharashtra model, where we have six. Another is UP model, where one Lok Sabha Member has five Assembly constituencies. Another is Assam, where we are having nine - 126 Assembly Members and 14 Lok Sabha Members. In some of the States, there are 7. As far as possible, instead of having so many variatiorfs, if efforts are made to reduce the variations, that would be a good exercise.

My last point with which I would like to conclude is that those necessary consequential amendments in the Delimitation Act should be brought as quickly as possible so that the work which has begun does not get retarded. It should continue with the full speed because one of, to my mind, the basic objection and to my mind is a very valid objection which was raised by the Members of the Lok Sabha, as per the time schedule indicated by the hon. Minister and it is so and he is also working on a very tight time schedule, if the final figures of the 2001 Census are available by September-October, the Delimitation Commission after exercising their work, adjusting the voters and territorial areas of the Lok Sabha constituency, a

Lok Sabha sitting Member, incumbent Member, would be in a position to know the shape and size of his constituency only sometimes in the month of November-December at best. Even it may go up to March-April. If the election takes place in October-November, which is the schedule time, hardly he will have any time. There is no denying the fact that whatever exercises could be made, there will be major changes because we are doing it after 30 years. The number of population which has increased, the shifting of population which has increased, organisation which has taken place, it cannot be just mere territorial readjustment of the boundary, it will be almost resetting of the territorial constituency. Therefore, the Members of the Lok Sabha must get adequate time to acquaint themselves. At best, it could be done if the exercise goes on right now. The next election can take place on the basis of the existing territorial constituency, but when the next election will be there, from the very beginning, the Members of the Lok Sabha constituencies will be able to know what would be there territorial area, what would be their population size of their constituencies.

With these words, I support the Constitution Amendment provision moved by the hon. Law Minister. Thank you.

SHRI RAVULA CHANDRA SEKAR REDDY (Andhra Pradesh) : Thank you, Sir. I rise to support the Bill. I welcome the move that Census, 2001 should be made applicable for the purpose of delimitation. Delimitation of constituencies is very much essential for a vibrant- democracy. It has to be done periodically to avoid disparity. The Census Commission should be asked to publish Census figures immediately, to enable the Delimitation Commission and others to work for the next General Elections, as per the latest population figures. It can be made possible with the help of software and various other machinery, to complete this exercise quite quickly and to utilise the latest figures for the next General Elections. The delimitation should be in accordance with the provisions of the law and guidelines laid down for that purpose. Further, in future, delimitation should invariably be done immediately after every Census, as per the Constitutional provisions. The role of associate members is not clear and they are mere spectators. A working paper was released, based on the 1991 Census, and this was not discussed with the associate members at that time of its preparation and release. Except the resettlement provisions for the associated members, nothing is contemplated to utilise their services, experiences, etc. We are aware that they are all utilising the various political parties, both in the ruling and opposition. Hence, I request the hon. Minister to see that their views

are heard and implemented, provided they are in accordance with the law and guidelines laid down for this purpose. With these words, I support the Bill. Thank you.

THE DEPUTY CHAIRMAN : At the speed with which we are going, I think we can finish with the voting process faster than expected.

SHRI MATILAL SARKAR (Tripura) : Thank you, Madam, for allowing me to speak on the Constitution (Ninety-sixth Amendment) Bill, 2003. I would like to put forward here some observations and points for clarification and justification. Delimitation is obvious; and it has fallen overdue. There is no doubt about it. We cannot deny this fact. But the thing is that, one process had already started, and different States - State Governments, State machineries - were put to tremendous pressure for completing the delimitation works according to the 1991 Census, as soon as possible. But I think, many of the States have sorted out as to how to complete this work, according to the 1991 Census. Now, when the process has come almost to an end, the question of 2001 Census has arisen. Here, I am to seek clarification on some points. What about this 2001 Census? The hon. Minister has. already stated that the figures that are applicable to the delimitation purposes are still to be received, and it may take some more months to have these figures. So, the process will be delayed. But the Parliamentary elections are due in 2004. The message to the people has already gone that the delimitation exercise is going on, and elections would be held on the basis of this delimitation. The message has reached the people and some doubts have cropped up. So, if we make these amendments, would it be possible to hold elections according to the 2001 Census? We do not like to deprive the people of the delimitation benefits. We have already deprived the people of these benefits for many years. What do these benefits come to be? The benefits are like this. If the population of the present constituency is double or triple of the other constituency, the rationale is to determine the size of the constituency by delimitation.

Another point is that the population of these constituencies should be even as far as practicable. The third point is, while doing delimitation, appropriate number of seats should be reserved for the Scheduled Caste/Scheduled Tribe voters. And if the election is held without the delimitation process being completed, then all these benefits will be denied to the people this time also. An amendment is not for the sake of amendment only. It must have relevance to the election. That is why I find

that it will be extremely impossible to complete the delimitation process before holding the ensuing election, if we take into account 2001 Census. If we want to give the benefits to the people during the ensuing election, then the process which has already started and is nearing completion may be given effect to. And if the delimitation has to be done according to 2001 Census, then I would seek a clarification whether it is possible to complete the delimitation process before the election. Our party's stand is, we want to give the benefits of the delimitation process to the people in the ensuing election. We do not like to deprive the people of these benefits for another five, six years. With these words I conclude.

DR. V. MAITREYAN (Tamil Nadu): Madam, last year, around the same time, I had the occasion to speak on the Delimitation Bill with '1991 Census' as the basis. After the Parliament enacted the act, the Delimitation Commission was set up on i2lh July. Now, ten months later, I again stand before you to speak on the Amendment Bill, with '2001 Census[1] as the base year. In between, the Commission had done a significant work, it has done a solid ground work. It has prepared Paper I and Paper II, and it has met the representatives of various State Committees. Undoubtedly, there has been a significant progress in the work done by the Delimitation Commission in the ten months of its inception, but because the base year is changed now, the Commission will have to re-work the whole thing once again.

Madam, look at what the Government has done. Less than a year after the enactment of the Delimitation Act, 2002, the Government comes before the House with an amendment. The Statement of Objects & Reasons of today's Bill mentions that in the light of the views expressed by various intellectuals including lawyers, political thinkers and other experts, the delimitation, be:*ig done after a gap of 30 years, should not be done on the basis of the out-dated figures of 1991 Census. Does it require intellectuals to come and tell us that the figures of 1991 Census are outdated in 2002? Did the Government not have people who could apply their mind on this issue? Last year, Shri Arun Jaitley, while defending '1991' as the base year, said that 2001 Census will not be published for several months or years? Has that situation changed now? Even now, according to Shri Jaitley, that 2001 Census data is not out and it is going to take, at least, a couple of months from now onwards. The Union Cabinet Minister and the Spokesperson of the Cabinet, Shrimati Sushma Swaraj, while announcing the change in the base year, said that the major advantage

would be a substantial increase in the number of seats for the SCs and the STs. From 8 seats, according to the 1991 base year, it will be doubled, that is, 15 seats, according to the 2001 Census. It took one year for the Minister to find out that the SC and ST seats will be nearly doubled, according to the 2001 Census, compared to the 1991 Census.

It is another matter that the delimitation idea, according to the 1991 Census, had caused worry to several party leaders and gave them sleepless nights, according to Press reports. Anyhow, 1991 has gone and we are talking about 2001 as the base year.

I would like to touch upon two specific issues pertaining to Tamil Nadu. As per the existing 1971 Census, we have 3 seats for STs in the Assembly. According to the 1991 Census, it will come down to 2. Considering the special status of the Scheduled Tribe community, I would urge upon the Central Government and, through it, the Delimitation Commission, that the existing - I don't know, according to the 2001 Census, what is going to be the state of affairs - number of seats, that is, 3 seats, should not be reduced and it should be maintained as three.

As far as the Scheduled Castes are concerned, according to the 1971 Census, there were 42 seats. It will now increase to 45 seats, according to the 1991 Census and, probably, it is likely to increase to 47, according to the 2001 Census. This increase of 5 seats for the SCs, compared to the 42 seats, is highly welcome and they deserve this increase, considering the fact that there is an increase in their population.

However, it is observed that the same constituency is, time and again, topping the list prepared in the descending order, on the basis of the proportion of the Scheduled Castes population to the total population. For example, take the Nilakkottai constitutency in Dindigul district. Acharapakkam constituency in Kancheepuram district, Valparai constituency in Coimbatore district and Perambur constituency in Chennai district. These have been reserved constituencies for the past 30 years, since the last delimitation in 1972, and it will continue to be so for another 30 years, that is, till 2031. This deprives the candidates from other castes their democratic right to contest elections from these constituencies, which they virtually deserve. Looking at it from another angle, since the same constituencies continue to be reserved, in some other constituencies, where the Scheduled Castes form the second largest share of the population, they never get an opportunity of being represented in the reserved constituency. Looking at

it from both ways, the right course would be to have the constituencies reserved on a rotational basis. Therefore, I strongly urge upon the hon. Minister to consider these two aspects, (1) the other candidates should be given a chance in the existing reserved constituencies, and (2) the reserved candidates should be given a fresh chance in other constituencies.

Finally, the Central Government and the Delimitation Commission should fix a specific timeframe for the completion of the delimitation process, as per the 2001 Census, probably, well before the 2004 Lok Sabha elections. With these words, I support the Amendment Bill. Thank you.

SHRI R. SHUNMUGASUNDARAM (Tamil Nadu): Thank you very much, Sir, for giving me this opportunity. The hon. Minister has promised that the 2001 Census figures will be published within 3 months and, therefore, the 2001 Census figures can be incorporated instead of the 1991 Census figures. This is practical. We have to think practically and decide. The hon. Minister, instead of following the 1991 Census data, which is going to be out within a couple of months, has come forward with a Bill to incorporate the 2001 Census data. It is most welcome and I support this Bill for this reason. Madam, the hon. Minister has commented about the associated members of the Commission. It is not only that they should have a vital role to play, but also, they should have some assistance from the Commission. There is a complaint that the State Chief Electoral Officers are not helping or assisting those associated members by furnishing the required information, statistical details, territorial maps, revenue maps, etc. Therefore, the associated members of the Commission - as they represent important political parties - should be supplied with all the required details. That sort of assistance is required and I hope and expect that the hon. Minister will take care of this aspect.

Madam, our State is implementing the control on population effectively, and, any census figures should not be taken to penalise my State and also those States which are implementing the strict population control measures.

With these words, I support the Bill. Thank you.

श्री संजय निरूपम: उपसभापति महोदया, मैं इस बिल के समर्थन में बोलने के लिए खड़ा हुआ हूं। अरूण जी चौंक रहे हैं। पिछले एक साल से जब से यह डिलिमिटेशन का बिल पास हुआ है तब से पूरे देश में यह चर्चा का विषय रहा कि 1991 की जनसंख्या के आधार पर अगर डिलिमिटेशन होता हैं तो उससे कोई फायदा नहीं होता हैं। इसलिए 2001 की जनसंख्या के आधार पर होना चाहिए। तमाम राजनीतिक दलों के जो कार्यकर्त्ता है, नेता हैं, एम.पी. हैं,

सबने अपने-अपने ढंग से रिप्रेजेंटेशन दिया, अपनी बाते रखीं। हमारी पार्टी की मीटिंग में भी इस पर बड़ी गंभीरता से चर्चा हुई और हमारी पार्टी ने आल पार्टी मीटिंग में अपनी बात रखी थी। हम बड़ी शंका में जी रहे थे कि सरकार हमारे सुझावों को मानेगी या नहीं मानेगी। अंततः सरकार ने माना और इसमें संशोधन लाकर के 2001 को इनकारपोरेट किया हैं। यह आपने बहुत अच्छा काम किया है। यह हर्ष की बात हैं। लेकिन यह सबसे महत्वपूर्ण बात हैं जिसके बारे में हमारे दक्षिण के साथी बता रहे थे कि अब ऐसा नहीं हो कि इसकी रिपोर्ट आने में बहुत देर लग जाये। इसलिए डिलिमिटेशन कमीशन को रिपोर्ट देने के लिए एक डेड लाइन देनी पड़ेगी कि एक साल के अंदर, छह महीनें के अंदर अपनी रिपोर्ट दें। निर्वाचन क्षेत्रों की पुर्नरचना करनी है इसलिए वह अपनी रिपोर्ट जल्दी से जल्दी दे दे। हमारे पास जो जानकारी है उसके अनुसार 15 से 16 लाख वोटर्स पर एक कांस्टीट्युअंसी बनेगी। जहां तक मेरी जानकारी हैं, अगर मेरी जानकारी गलत हो तो मुझे करेक्ट कर दीजिएगा। तीन लाख दस हजार वोटर्स पर एक विधान सभा की सीट होगी। अब इसके बारे में एक बात पर मैं आपका ध्यान आकृर्षित करना चाहूंगा कि शहरों में तो यह बहुत सहज होगा। जैसे मुम्बई की कांस्टीट्युअंसी लें तो 15-16 लाख वोटर्स क लिए शहरी क्षेत्र में एक उम्मीदरवार के लिए घूमना, काम करना आसान हैं। लेकिन इसी 16 लाख के वोटर्स के ऊपर अगर कोई ग्रामीण क्षेत्र का निर्वाचन निर्धारित किया जाता है तो उस उम्मीदवार को, ग्रामीण क्षेत्र के उम्मीदवार को बहुत मेहनत करनी पड़ेगी क्योंकि एरिया बहुत बड़ा होगा। वहां की आबादी घनी नहीं होती हैं। शहरों की आबादी घनी होती हैं। ऐसे में एक चिन्ता की बात निकलकर आती है और वह है चुनाव के दौरान खर्च की। एक व्यक्ति को दक्षिण मुम्बई में केम्पेन करना हो और उसी व्यक्ति को पड़ौस के बुलढाना में केम्पेन करना हो, हमारे बुलढाना के एम.पी.बैठे हैं, आप इनसे पूछिए कि कितनी बड़ी कांस्टीट्युअंसी हैं। हमारे थाणे की कांस्टीट्युअंसी है या फिर रामटेक की कांस्टीट्युअंसी हैं या राम नाईक साहब की जो कांस्टीट्युअंसी हैं। एक बार वह जोगेश्वरी से शुरू होती है तो वसई, पालफर होते हुए पता नहीं कितनी दूर विरार आदि पार कर जाती हैं। सिंधु-दुर्ग 127 किलोमीटर है। इतने बड़े क्षेत्र में उम्मीदवार को अगर अपना केम्पेन करना हैं वह और उसकी तुलना में दक्षिण मुम्बई या दादर का क्षेत्र जो दक्षिण-मध्य मुम्बई हैं, उस क्षेत्र के उम्मीदवार को जो केम्पेन करना हैं, दोनों के केम्पेन में, मेहनत में बहुत बड़ा फर्क हैं। उसके खर्च में भी फर्क है तो इस बारे में भी कुछ ध्यान रखना चाहिए, इसको भी कंसीडर करना चाहिए। यह मेरा इस बिल पर बोलते हुए एक निवेदन हैं।

दूसरी बात यह है कि 2002 में वोटर्स लिस्ट रिवाइज हुई हैं। अब 2001 की सेंसस की रिपोर्ट के आधार पर आप यह कर रहे हैं। जो 2002 में वोटर्स लिस्ट रिवाइज हुई हैं उसमें कई कांस्टीट्युअंसी में वोटर्स और पापुलेशन, आबादी और मतदाता जो हैं, उनमें अब वह रेश्यों नहीं रहा है। आमतौर पर एक रेश्यों होता है 60 और 40 प्रतिशत के आसपास। अब वह बिगड़ गया हैं। उसका एक उदाहरण देता हूं। वासिम के बारे में हैं। वासिम हमारा एक चुनाव क्षेत्र हैं, उस चुनाव क्षेत्र में बिल्कुल यही स्थिति हैं। जितनी लोक संख्या उससे थोड़ा बहुत कम वोटर हैं, आम तौर पर ऐसा नहीं होना चाहिए। इस समस्या का समाधान कैसे ढूंढा जाना चाहिए, इस बारे में भी मंत्री जी का ध्यान आकर्षित करना चाहता हूं। सबसे महत्वपूर्ण बात यह है कि लोक सभा और विधान सभाओं की सीटों की अगर पुनर्रचना कर रहे हैं, इसके साथ साथ सीटों को बढ़ाने के बारे में भी सोचना चाहिए। महाराष्ट्र में विधान सभा है, बिहार में विधान सभा है, यू.पी. में विधान सभा हैं, इन विधान सभाओं की संख्या भी बढ़नी चाहिए, बिल्कुल उसी तरह से लोक सभा की सदस्य संख्या भी बढ़नी चाहिए। मुझे इधर से सुनकर अच्छा लगा कि इनकी भी

इच्छा है कि यह सदस्य संख्या बढ़नी चाहिए । जबकि अब तक इम्प्रेशन यह था कि जो दक्षिण के राज्य हैं, वे इसके खिलाफ हैं । क्योंकि पापूलेशन कंट्रोल का जो कार्यक्रम हमारे देश में चला, उसमें दक्षिण के राज्यों की सरकारें जो थीं, या फिर पश्चिम के राज्यों की सरकारें थी जैसे महाराष्ट्र, गुजरात, तमिलनाडु, कर्नाटक या दूसरी ओर केरल की सरकार थीं, इन सरकारों ने तो जनसंख्या नियंत्रण के कार्यक्रम को बड़ी ईमानदारी से लागू किया लेकिन उत्तर के राज्यों में जनसंख्या नियंत्रण के कार्यक्रम ढंग से लागू नहीं हो पाए जिसकी वजह से वहां पर लोक संख्या बढ़ी, जनसंख्या अधिक बढ़ी, इधर जनसंख्या कम बढ़ी । ऐसा एक इम्प्रेशन था कि दक्षिण के राज्यों का ऐसा आग्रह है कि सीटों की संख्या नहीं बढ़ायी जाए। मेरा निवेदन यह होगा कि सीटों की संख्या बढ़ाई जानी चाहिए लेकिन उस समय, ऐसी स्थिति में पूरा का पूरा बैलेंस बिगड़ न जाए, इसका ख्याल रखते हुए एक प्रतिशत तय कर दिया जाए कि तमाम विधान सभाओं में, पूरी की पूरी लोक सभा में दस परसेंट सीटें बढेंगी । अगर दस परसेंट सीटें बढ़ती हैं और सारे के सारे राज्यों से उसी अनुपात में, उसी प्रतिशत में सदस्य संख्या बढ़ती हैं तो कहीं भी असंतुलन नहीं होगा । इसलिए सीटों को बढ़ाने के संबंध में भी सोचना चाहिए क्योंकि यह 2026 तक का मामला हैं । 2026 से पहले सीटों को बढ़ाने के मामले में या सीटों की पुनर्रचना के बारे में कोई विचार नहीं होने वाला, कोई बिल नहीं होने वाला, सरकार को कोई चिंता नहीं करनी हैं । इसलिए 2026 तक इस देश की क्या पापूलेशन होगी ? आज जहां आप 16 लाख तय कर रहे हैं, उन सीटों के लिए वोटर्स की संख्या 25 लाख से भी ऊपर जा सकती हैं । आज जो एमपी 14 लाख 15 लाख, 16 लाख वोटर्स के सामने कैम्पेन करके लोक सभा में आ रहे हैं, उनको 2026 के आते आते 25 से 30 लाख वोटर्स को झेलना पड़ सकता हैं । इसलिए कहीं न कहीं सीटों को बढ़ाने की दिशा में...

श्री भारतेन्दु प्रकाश सिंहल (उत्तर प्रदेश) **:** साहिब सिंह जी की कान्स्टीट्यूएंसी में इतने वोटर्स हैं ।

श्री संजय निरूपम : जी हां । इसलिए सीटों की संख्या अगर बढ़ाएंगे तो ही समस्या का सही समाधान निकल सकता हैं । इसके साथ ही मैं इस संशोधन विधेयक का समर्थन करता हूं । धन्यवाद ।

कृषि और ग्रामीण उद्योग मंत्रालय के राज्य मंत्री (श्री संघ प्रिय गौतम) **:** धन्यवाद उपसभापति महोदया, अभी पिछले वर्ष हमने परिसीमन संबंधी विधेयक पारित किया था और परिसीमन आयोगा का हमने गठन कर दिया, उसने अपना काम प्रारम्भ कर दिया लेकिन इस प्रकार के सुझाव आए कि 2001 को भी दो साल हो गए, इसलिए अच्छा होगा कि परिसीमन का आधार 2001 की जनगणन हो न कि 1991 की । यह एक बड़ा तर्कसंगत विचार था । सरकार ने इसको स्वीकार करके एक औचित्यपूर्ण कदम उठाया और फिर इस विधेयक को लाई । मैं इसका समर्थन कर रहा हूं लेकिन मुझे एक बात कहनी हैं, ताकि सनद रहे और वक्त जरूरत काम आए । 14 अक्तूबर 1956 को महाराष्ट्र में डा.भीमराव अम्बेडकर ने बौद्व धर्म को स्वीकार किया था । उनके साथ साथ महाराष्ट्र के अनुसूचित जाति के लाखों लोगों ने बौद्ध धर्म को स्वीकार कर लिया और वे हिन्दु धर्म से हटकर जनगणना में बौद्ध धर्म की श्रेणी में लिख दिए गए । इस प्रकार जो सुविंधाएं अनुसूचिसत जातियों की उन्हें आरक्षण के रूप में मिलती थीं, वे समाप्त हो गयी । लेकिन 1990 में फिर एक संविधान संशोधन हुआ और बुद्विस्ट हो गए थे, उनको फिर से अनुसूसिचत जातियों के अधिकार आरक्षण के वापस कर दिये गए और उनको उसी श्रेणी में गिन

लिया गया । 1991 की जनगणना में इसका प्रकाशन हो गया । लेकिन परिसीमन न होने के कारण और उनकी संख्या घट जाने के कारण महाराष्ट्र में पहले यह स्थिति थी कि 36 विधान सभा की सीटें अनुसूचित जातियों के लिए आरक्षित थीं और 6 लोक सभा की सीटें उनके लिए आरक्षित थीं, वे घटकर 18 आरक्षित सीटें विधानसभा की रह गयी और 3 आरक्षित सीटें लोकसभा की हो गयी । 1991 के बाद तीन लोक सभा चुना 1996,1998,1999 के हो गए हैं । लेकिन कहते हैं कि चौबे जी गए थे छब्बे जी हो होने , दुबे जी ही रह गए । कहां तो अनुसूचित जाति, जनजाति की सीटे बढ़ने की बात कर रहे हैं और कहां उनकी विधानसभा की अठारह सीटें और लोकसभा की तीन सीटें कम हो गई हैं । एस.सीज बराबर सीटें खोते चले आ रहे हैं । अगर यह रिपोर्ट जल्दी ही कहीं प्रकाशित नहीं हुई तो आने वाले चुनाव में भी उन्हें लाभ नहीं मिलेगा और उन्हें अपनी सीटें गंवानी पड़ेगी । यह उनके साथ बड़ा घोर अन्याय होगा । मैं कानून मंत्री जी से प्रार्थना करूंगा कि कभी-कभी हम रात के दो बजे तक लोकसभा और राज्य सभा को चलाते हैं इसलिए यह जो सेंसस रिपोर्ट हैं, दिन-रात काम कराकर इसे पार्लियामेंट के मानसून सेशन से पहले मंगा लीजिए ताकि यह इनकॉर्पोरेट हो जाए और उन लोगों के साथ जो अन्याय हुआ हैं वह अन्याय भी बदल जाए।इन्हीं शब्दों के साथ मैं आपके विधेयक का समर्थन करता हूं ।

SHRI N.K. PREMACHANDRAN (Kerala): Madam, thank you very much for giving me this opportunity to speak on the Constitution (Ninety-sixth) Amendment Bill.

Madam, timely delimitation is essential and highly required for a good democracy. But, in this case, we are discussing on the Constitution (Amendment) Bill in respect of a subject-matter which is not in existence. In other words, we are discussing on the Constitution (Amendment) in respect of a Census Report which is yet to be published, which is expected to be published in the month of September or October, 2004. In anticipation, we are amending the Constitution saying that the next delimitation would be done on the basis of the Census Report of 2001. Therefore, I would like to state that this Constitution (Amendment) is a premature one.

Madam, all exercises, in respect of the 1991 census, have been done by the Delimitation Commission. For eight-nine months, the Commission was on the job. So many efforts were put in. And, suddenly, it is being shifted to 2001 census, which means that it is not going to be given effect to in the coming General Elections. The hon. Minister, in his opening remarks, said that this is expected to be published in the month of September or October, which means that in the coming General Elections, the benefit of delimitation is not going to reach the public, especially, the Scheduled Castes and the Scheduled Tribes, as their representation is not going to change in spite of this Amendment. Also, Madam, as regards the 1991 Census, this was published in the Official Gazette in the year 1995. Now, what will be the fate of 2001 census? Supposing the Gazette

Publication of 2001 census is delayed, then, the delimitation process will be prolonged, and it will be delayed. And, the fruits or benefits of the delimitation process are not going to reach the people in the near future.

Madam, as far as article 82 is concerned, delimitation has to be done after every 10 years. But no delimitation has taken place since 1971. So, my question is: What prevents the Government from having this delimitation process on the basis of the 1991 Census? Madam, the Delimitation Commission is going to work on the basis of the provisional assessment of the population which is expected to be published in a few months. But, it is better to have delimitation on the basis of the 1991 Census so that this is done with immediate effect, and it is given effect to in the coming General Elections.

The second point which I would like to make is regarding reservation of the Scheduled Castes and the Scheduled Tribes. As far as the reservation for the Scheduled Castes and the Scheduled Tribes is concerned, for the last so many decades, Parliamentary constituencies as well as the State Assembly constituencies have been reserved permanently for certain categories of people. Madam, is it just and fair? We have to think of it. This reservation should be on a rotational basis. What is the principle that has been adopted for reservation? One principle adopted for reservation is that we have to serve the SC/ST population in a particular constituency. I don't think it is being followed. The.reservation is for having adequate representation of the backward people, especially the SC/STs, in the policy-making bodies and in the administration. If that is the case, why is it not being rotated? Why it is fixed for a particular constituency, on the plea that that particular constituency has a large population of the SC/ST people. If that is the case, then it means that we have not been able to get rid of casteism; or, it means that the discrimination against the backward people, or, the SCs and STs, is not yet over. In the 73rd and the 74lh Constitution amendment, in the case of the Panchayati Raj Institutions and the Nagarpalikas, both the Houses had accepted the principle - that it was to be on a rotational basis. The hon. Minister remarked in the other House that if some constituency did not have the SC/ST people, somebody from the other constituency could come and contest. Why certain constituencies are being reserved for elite classes and the people belonging to higher castes. Let some SC/ST people contest. Let them also come into the mainstream. If that is the principle that is being adopted for reservation, then reservations are being denied. In the case of PRIs and the

Nagarpalikas, if there is no voter there in a particular Ward, a candidate from another Ward comes and contests the election there. Is it not possible in the case of a parliamentary constituency and a Assembly constituency? So, adequate representation for the SC/ST people has to be there. They should be adequately represented. So, my submission is that the population of a particular constituency should not be the basis; the main thing to be taken into consideration is that it should be on the basis of rotation so that the benefit goes to everybody.

I would like to make another point. There is another anomaly regarding the delimitation process. That is in respect of the State from which I come, the State of Kerala. Now, in Kerala, the process of delimitation has been going on. If this principle is followed there, the number of seats in a particular area of Kerala will increase and the number of seats in another area, for example, the southern part of Kerala, will decrease. We have accepted the principle that average population of a particular constituency is the total population divided by the total number of seats; and the number of seats in a particular district will be the total population of that particular district divided by the average population. If that is the principle adopted, what will happen is that in the northern part of Kerala, there will be an increase of about seven to nine seats. The southern part, especially the Travancore-Cochin area, which has implemented the family planning programme in a very effective way, will have to suffer. So, the number of seats in the southern part will be decreased. So, that point has also to be taken into consideration, for which I have to make a suggestion. Firstly, the district should be taken as a unit. When the number of seats is being allocated, at that time, this disparity should be removed.

Before I conclude, I want to, once again, express one apprehension. If the 2001 Census is further delayed, and this delimitation process also gets delayed, then it will not be fair as far as the people are concerned. The benefit will not go to the people. So, I would like to know whether the Minister could assure this House that this will be expedited.

With these observations, I would like to conclude.'

SHRI FALI S. NARIMAN: Madam, I only have one query, because I am a little concerned that we are saying goodbye to the 1991 Census, and we haven't yet got the 2001 Census, with the result that if we read article 170, we find that we may -- perhaps, I am too pessimistic - find ourselves

4.00 p.m.

in a difficulty of not being able to hold an election in a particular State. I would respectfully suggest that we should follow the expedient which we have in the amendment to article 22(3) by the Constitution (Forty-fourth Amendment) Act of 1978 where there was a clause in the Constitution (Amendment) Bill saying that the Act will come into force on such date as the Central Government will appoint. So, we don't then fall between two stools. At least, we have the 1991 Census ready. It is available. The Delimitation has taken place. Elections can be held on that basis. If by some mischance, as hon. Members have been suggesting throughout, the 2001 figures are not published or the Delimitation does not take place, as anticipated, for various reasons, which we are, at the moment, not able to contemplate, what is going to happen? We cannot have a constitutional impasse. The things must flow. Everything must proceed. Therefore, how do we provide that if we don't have the 2001 Census figures, things will go on under the 1991 Census? That can only be, if we have a clause which says that this section will come into force on such date as the Central Government shall appoint; otherwise, we are burning our boats. That is the only point I wished to make. I don't want to sound too pessimistic, but if there is some answer, I think it has to be found now.

SHRI N.R. DASARI (Andhra Pradesh): Madam Deputy Chairperson, thank you very much. I don't want to take much time of the House because it has been sufficiently explained by my colleagues. I totally agree, lock, stock and barrel with the speech made by Shri Pranab Mukherjee. It was clarificatory as well as suggestive. Of course, no doubt, it is late. Anyway, I should thank the Government for waking up. Though it is late, it is for the better. I would also suggest to the Government, and the hon. Minister particularly who is now piloting the Bill, to see to it that the Delimitation Commission should be given some latitude. And also, some sort of flexible approach would help to make some corrections, as they are existing today. Here, I cite an example. In Andhra Pradesh State, there is one Parliamentary constituency called Bhadrachalam Parliamentary constituency, covering about four districts and the length of the constituency is as much as the Kerala State. It is a fact. I have worked there several times. Most part of the constituency is in forest area. It is a different matter. But the question is, there is no harm in such cases, if the Delimitation Commission will act with some sense of flexibility and practical outlook.

Madam, lastly, I would like to request the Minister as well as the Government, as many of the Members have suggested, to see to it that the Census Report would come out; of course, not in a hurry, but in the next five or six months, positively. So, that should also be stipulated in this Constitution (Amendment) Bill. Thank you very much.

SHRI H.K. JAVARE GOWDA (Karnataka): Thank you Madam Deputy Chairperson. After going through the Constitution (Ninety-sixth Amendment) Bill, 2003, I find only one word in all clauses - (amendment of article 81, article 82, article 170 and article 330) - instead of 1991, it is 2001. It is very simple. Just ten months back, we passed the Bill on the basis of a complete Census Report. Now, we are discussing the Bill in the anticipation of an incomplete Census Report. But the nation, as a whole, is doubting the *bona fides* of this Bill. How? Just one month back, we heard a lot of hue and cry, suspicions and anguish from leaders of various political parties. Look at the BJP leaders of Delhi, look at the Congress and other parties leaders in Rajasthan, they have started doubting that they are going to lose their constituencies. It is common notion of the people of the country that these parliamentarians in order to save their constituencies have brought forward this Bill. But to give our strength or the views that this 2001 census will be completed within three months, still I have a doubt about it. It is expected that our elections, if things go as usual in a normal way, will be held in 2004. Everyone is doubting, common people are doubting about the compilation of the Scheduled Castes and Scheduled Tribes population list and the same not being completed and the leaders who are going to be moved on the basis of rotation will not allow this Government or anybody to implement the 2001 Census Report in 2004 elections. That is the doubt in the minds of the people. I will give an example, Mr. Law Minister. There is Kanakpura Parliamentary constituency in Karnataka. It has 26 lakh voters. Now it is proposed to have two constituencies. A delegation came to see the Chairman of the Delimitation Commission. Who were those people? The Speaker of the Legislative Assembly, the Chairman of the Legislative Council, leaders of the opposition parties and others said that someone had influenced in Karnataka to change the constituencies and the entire Commission was working on this basis. A false-propaganda was made and an irresponsible Minister of the Karnataka State, made a statement in the House also. I am ready to authenticate because it is on record. I would ask the hon. Minister how these facts were revealed leaked and came out from the Commission that this was the position and these were the constituencies. That is why wherever they go in India, people start to say,

"This is the constituency which is going to be changed, that this is the Scheduled Caste constituency and this is the adjoining area." How is this Commission working? Are you not aware of these things? Have you not gone through the newspapers? I am also supporting this Bill. Why I am bringing it to your notice how and why the Commission is working in such a way and in what circumstances they are releasing leaking all these information to the public. It creates doubts about the *bona fides* of this great Parliament. In these circumstances, I request the hon. Minister to see that before 2004, this 2001 census is compiled and given effect to. Thank you.

SHRI ARUN JAITLEY: Madam, I am extremely grateful to the hon. Members who have expressed detailed opinions on this Bill. I will just deal with two of the fundamental questions which have been raised by some of the hon. Members. The first is with regard to the rotation of the Scheduled Caste constituencies. The issue of rotation is not covered in the present Bill. It is a much larger issue on which we require a separate discussion. The present Bill is only concerned with one limited issue as to what is the basis, as the base year, which the delimitation is to be done. Earlier we had anticipated that the availability of the Census figure would take a reasonably long time. It had taken longer time even when the last delimitation was done. But these days with the best available software, I am given to understand that after the Census figure is available, the completion of the delimitation exercise which had taken four to five years last time is a matter of months, therefore, it does not take a much longer time. In the last eight months, in fact, substantial headway has been made on the basis of 1991 Census. The issue of rotation has to be seen in the light of two facts. The first one is, it involves a Constitution Amendment with a very major ramification. That can only be done if there is a larger consensus build up amongst the political parties. Also, various discussions have been held amongst the political parties and no such consensus among the political parties has emerged. Therefore, the possibility of that being brought before this House for discussion and approval, in the absence of a consensus, does not arise.

Secondly, those who have been supporting the idea of rotating the Scheduled Caste and Scheduled Tribe constituencies, have been suggesting that constituencies, which are indefinitely reserved, the general category voters in those constituencies do not get an opportunity to contest and in other constituencies, which are unreserved - or, general constituencies -

general candidates are generally being put up and the Scheduled Caste candidates do not get much of an opportunity. This is the argument that they have been giving. The argument against this, besides the absence of consensus, has been that rotation will really mean that people stop nurturing their constituencies; once there is a disincentive that next time the constituency is going to be reserved. There is one more consequences which we must be aware of. There is a difference in the Delimitation Act and this difference has existed even in the earlier Act. It is between the basis of reservation for the Scheduled Caste and Scheduled Tribe constituencies. Madam, Scheduled Caste constituencies, under Section 9, will be those constituencies where the number of Scheduled Caste voters is comparatively large. Therefore, you will prepare a list of constituencies where there is a large Scheduled Caste population. The larger amongst them, not with regard to arithmetical precision, but, generally, will be reserved. But, if you find that all constituencies, which are being reserved, are contiguous to one another and not spread out through the State, some element of discretion exists with the Delimitation Commission to. actually, leave out some of the larger constituencies and go to the next larger constituencies so that the seats of the Scheduled Caste could be spread over.

However, with regard to Scheduled Tribe constituencies, the words which this House has used consciously are to reserve those seats where the ST population is the largest. If there are two ST. constituencies in a State, the first two constituencies, in terms of its population will, automatically, get reserved. Now, if you start rotating them, one of the obvious consequences will be, where there is the largest ST population, next time would be represented by a general category candidate and you will find ST reservations taking place in constituencies where the tribal population does not exist. This can be one of the consequences of rotation itself and, faced with this anomalous situation, this has been discussed between the political parties and a consensus on rotation has never been reached. And, therefore, in the absence of consensus, the Government is not in a position to bring about this particular proposal before this House.

The third one is with regard to freezing of constituencies which we have imposed till 2026. Madam, 2026 is not a figure which has been arbitrarily picked up. Under the National Population Policy, 2026, is the anticipated date, between the Centre and the State Governments, by which we expect, in view of all the measures on the population of the country,

stabilisation. And, therefore, it is only in 2026, this House will get an opportunity to re-discuss what the basis of the number of constituencies could be. Till that time, if we start increasing the number of constituencies, as per the population increases in various States which has taken place, it would go contrary to the proclaimed national objective in the Population Policy. As the hon. Members themselves just mentioned, there are States which have done exceedingly well in stabilizing population and because they have stabilised the population and implemented the Population Policy, there would be a disincentive to them in as much as number of seats in those States would get reduced. And, those defaulting States, as far as the population control programme is concerned, because they have defaulted and failed to control and implement the population programme, would get an incentive in as much as their political representation in the Lok Sabha would increase because the number of seats would increase. And, that is why a conscious decision with the consent of all political parties was taken that till 2026 we have this freeze which should continue for the present.

There are several factors which the hon. Pranab Mukherjee has mentioned, particularly with regard to the possibility of distortions and asymmetries which are created in the process of delimitation. The hon. Member was right when he mentioned it. Because, for example, Delhi has two constituencies - one, with a voter strength of four lakhs; and, the other with a voter strength of thirty lakhs. Now, these are symmetries that have come into existence. So, the basis, which we are now following, is: the number of seats at the national level will remain the same; the number of seats in the States will remain the same; the reservation for the Scheduled Castes and the Scheduled Tribes will be as per the census of 2001. The constituencies will broadly be equal. Now, when we say, "broadly equal", you cannot have it exactly or identically equal, but while making them broadly equal... That is the spirit of section 9 of the Delimitation Act -- the geographical features, the methodology of communications available, the facilities available, various other geographical features, such as, rivers, mountains. For instance, there is a mountain range, which is coming, an effort would be made to have a constituency on one side of the range, rather than allow to go it on the other side of the range. All these are indications that we have given. The Act has not - and, what Mr. Pranab Mukherjee has mentioned -- anywhere stated that ten per cent deviation in this regard is permissible. It appears that the hon. Member is right, because in the internal guidelines -- so that the Delimitation Act does itself act arbitrary -- they follow one yardstick in the case of one State or one

constituency, and a different yardstick in the case of others. In the internal guidelines, which they have published, the hon. Member is right, they have kept this 10 per cent upper cap as the maximum deviation in the population, and other factors that they can bring about. It is an internal matter for the functioning of the Delimitation Commission. It is their guidelines. And, the Government or this House is in no way in the Act or any other executive guidelines to advise them. One question about which we have all been concerned is, as to when will this exercise be completed. Between the 1973 delimitation and the present delimitation, one fundamental difference that has taken place is, the availability of first-class software that is now available. Even for the purposes of census and calculating and processing that data, that facility is now available.

Mr. Nariman raised a question, and some other hon. Members also expressed concern, as to when do we anticipate those figures to come. The provisional figures of the 2001 Census have already been published. All the provisional figures are available with the Delimitation Commission. The Delimitation Commission can start functioning with those provisional figures. The final figures are expected to be published around September or October this year. The difference between the provisional and the final figures is not so much relating to the volume of population, but to the tabulation of the Scheduled Caste and the Scheduled Tribe population, which is an exercise that is on, as far as the census figures are concerned. Once the census figures are published, the Delimitation Commission, in that event, could, then, formally start the exercise once again. Because some of the data has already been prepared on the basis of Census 1991, with the software, which is available with them, they will have to retabulate the data on the basis of Census 2001. And, that exercise will not take a very long time. I cannot today guess as to what would be the exact date by which they would be able to do this. We have also to bear in mind one fact: under the provision of the Act, once that report is submitted to the Government, the Government will, then, have to notify the report after all the objections are invited to that particular report. We have also to bear in mind, as the hon. Member Shri Pranab Mukherjee has said, that some reasonable time has to be given to sitting MPs, sitting MLAs, and also to potential candidates that they must know the exact geographical size of their constituency and the exact nature of their constituency. So, this information has to be given to them reasonably before the elections. So, if the figures are made available to us on the absolute eve of the elections, it may be little difficult to notify them for elections and, maybe, the date of notification can be post-election.

But if it is available before us' reasonably before the elections, then, after consulting all the political parties, because this is not a matter where Government would like to a unilateral decision. Since it concerns each one of the political groups, represented here, we will, at that stage, take a decision in this regard so that reasonable time is available and that would depend on how early the Delimitation Commission could submit its report.

Madam, a question, which Mr. Nariman had raised, was that since the Constitution Amendment does not carry a provision that it will be applicable from a date to be notified by the Government, the Constitution Amendment becomes applicable immediately. And, if it becomes applicable immediately, now, under the mandate of the -amending Constitution, after both Houses clear it and the Presidential ascent is obtained, the new Constitutional Amendment would come into force, and 2001 would be the basis. Now, if for some unforeseen reason, the 2001 Census is delayed; the figures are delayed, would we run into a situation where we are caught between two stools, as the phrase is used, so that we have no figures available as to how the next set of elections are to be conducted? That, I am afraid, may not be necessary because under the Constitution itself, they had visualised the situation of this kind happening, and both in article 82 relating to the composition of the seats for the House of People, that is, the Lok Sabha, and in article 170 for the composition of seats of the Legislative Assemblies, the second proviso to article 170 (3), and the second proviso to article 82 (3) itself clarifies this. I will just read out the proviso: "Provided further that such readjustment shall take effect from such date on which the President may, by order, specify. And until such readjustment takes effect, any election to the Legislative Assembly may be held on basis of the territorial constituencies existing before such readjustment.* In fact, whenever we read this Constitution document, we appreciate those who drafted this document because almost every conceivable contingency has been taken care of at the time of the drafting of the original text. So, the original Constitution was so drafted that a contingency of this kind, where the next figures are not available, we don't jump into a situation of vacuum where we have no figures available. That is a situation where article 170 and article 82 have a proviso which deals with the situation. Therefore, I do hope that such a situation may not arise. Madam, with regard to the number of constituencies, the hon. Member, and my colleague had raised this question, and some Members had also raised this question about reservation of constituencies for the Scheduled Castes and the Scheduled Tribes voters and electorates. A conscious decision has already been taken

by this House through the earlier Constitution Amendment that whereas there is a freeze on the number of constituencies, the number of constituencies to be determined for the Scheduled Castes and Scheduled Tribes reservation would be on the basis of the latest Census figures. And the basis of the latest Census figures, in the earlier case was envisaged as 1991, and today, it will be on the basis of 2001. Whatever are the Census figures available, as nearly as that figure; in proportion to that figure, the reservation of constituencies would take place. With these words, I commend to this House that this amendment to the Constitution may be accepted.

उपसभापति: श्री सतीश प्रधान जी, आपकी क्या समस्या हैं ?

श्री सतीश प्रधान(महाराष्ट्र)**:** मैडम, मैं एक छोटा सा क्लेरिफिकेशन आदरणीय मंत्री जी से पूछना चाहता हूं । बात ऐसी हैं कि मुम्बई और दिल्ली जैसे मैट्रो सिटीज़ में पूरे देश से बहुत बड़ी संख्या में लोग आते हैं । उसकी वजह से यहां के मतदाताओं की संख्या बढ़ती है और मतदाताओं की संख्या बढ़ने के बाद उसकी वजह से मतदान क्षेत्रों पर दबाव आता हैं। कुल मिला कर महाराष्ट्र की परिस्थिति ऐसी हो गई कि मुम्बई, पूना, नासिक, औरंगाबाद, नागपुर इत्यादि सभी शहरों में लोग बड़ी भारी संख्या में आकर रूकते हैं तथा ये इण्डस्ट्रियलाइजेशन की वजह से यहां आते हैं । इन सब के आने के बाद वहां पर मतदाताओं की संख्या बढ़ गई लेकिन यह संख्या बढ़ने के बाद भी मतदान क्षेत्र उतने की रहे । महोदया, पूरे देश से इतनी बड़ी संख्या में लोग आकर वहां रहते हैं और मतदाताओं की संख्या बढ़ने के बाद उसके मुताबिक टोटल मतदान क्षेत्र यदि मेट्रो का नहीं बढ़ेगा तो वह महाराष्ट्र के ऊपर अन्याय होगा । क्या मंत्री जी इस विषय के ऊपर कुछ बता सकेंगे ?

श्री अरूण जेटली: यह जो सिद्वांत हैं कि सीटों की संख्या हर प्रांत में बढ़े, यह किसी अलग प्रांत के लिए अलग सिद्वांत आज लागू नहीं होगा, क्योंकि पूरे देश के लिए जो इस सदन का और लोक सभा का एक निर्णय था सभी पार्टियों के निर्णय के बाद कि 2026 तक सीटों की संख्या न केन्द्रीय स्तर पर, न राज्यों के स्तर पर बढ़ाई जाएगी और यह सिंद्वांत जब तक वह निर्णय रहेगा तक तक लागू होगा हर प्रांत के ऊपर ।

THE DEPUTY CHAIRMAN: Now, I will put the Constitution (95th Amendment) Bill, 2003, moved by Shri Jaswant Singh to vote. The question is:

"That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration."

The House divided.

THE DEPUTY CHAIRMAN : Subject to correction :

Ayes : 160

Noes : 9

Ayes: **160**

Abrar Ahmed, Dr.
Agarwalla, Shri Parmeshwar Kumar
Agniraj, Shri S.
Ahluwalia, Shri S.S.
Akarapu, Shri Sudarshan
Alexander, Dr. P.C.
Apte, Shri B.P.
Apte, Shri Devdas
Ashwani Kumar, Shri
Azad, Shri Gandhi
Azad, Shri Ghulam Nabi
Azmi, Shri Abu Asim
Azmi, Maulana Obaidullah Khan
Bachani Lekhraj, Shri
Bagrodia, Shri Santosh
Bairagi, Shri Balkavi
Barot, Shri Jayantilal
Barupal, Shrimati Jamana Devi
Basha, Shri S.M. Laljan
Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Karnendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila

Bora, Shri Indramoni Borgohain, Shri Drupad Cariappa, Shrimati Prema Chatterjee, Shri Prasanta Chavan, Shri Prithviraj Darda, Shri Vijay J. Das, Dr. M.N. Dasgupta, Dr. Biplab Deora, Shri Murli Deshmukh, Shri Nana Dhindsa, Shri Sukh Dev Singh Durga, Shrimati N. P. Faguni Ram, Dr. Femandes, Shri Oscar Gautam, Shri Sangh Priya Gnanadesikan, Shri B.S. Goenka, Shri R. P. Gowda, Shri H.K. Javare Goyal, Shri Vedprakash P. Hasan, Shri Munawar Jaitley, Shri Arun Joshi, Shri Kailash Judev, Shri Dilip Singh Kadar, Shri M.A. Kalmadi, Shri Suresh Karan Singh, Dr. Kashyap, Shri Ramadhar Kaur, Shrimati Gurcharan Kaushal, Shri Swaraj

Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan Purru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Saria
Manhar, Shri Bhagatram
Manmohan Singh, Dr.
Maroo, Shri Ajay
Mattathil, Shri M.J. Varkey
Maya Singh, Shrimati
Meena, Shri Moolchand
Mehta, Shri Lalitbhai
Mishra, Shri Dina Nath
Mishra, Shri Kalraj
Misra, Shri Ranganath
Mukherjee, Shri Pranab
Mullana, Shri Faqir Chand
Murthy, Shri K.B. Krishna

Murthy, Shri M. Rajasekara
Naidu, Shri M. Venkaiah
Nandi Yellaiah, Shri
Nariman, Shri Fali S.
Natwar Singh, Shri K.
Nirupam, Shri Sanjay
Pachouri, Shri Suresh
Panda, Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal
Parmar, Shri Raju
Patel, Dr. A. K.
Patel, Shri Ahmed
Patel, Shri Keshubhai S.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.
Punj, Shri Balbir K.
Raghavan, Shri V.V.
Rai, Shrimati Kum Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal, Shri O.
Rajasekharan, Shri M. V.
Rajkumar, Dr. Alladi P.

Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaraiingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.

Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R. B. S.
Vasan, Shri G. K.
Verma, Shri Vikram
Vijayaraghavan, Shri A.
Virumbi, Shri S. Viduthalai
Vora. Shri Motilal
Yadav, Chaudhary Harmohan Singh
Yadav, Prof. Ram Gopal
Zahidi, Shri Khan Ghufran

Noes-9

Chandran, Shri S.S. Indira,
Shrimati S.G. Jothi, Shri N.
Kamaraj, Shri R. Khan, Shri S.P.M.
Syed Maitreyan, Dr. V.
Narayanan, Shri P.G. Perumal,
Shri C. Selvan, Shri Thanga Tamil

The *motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.*

THE DEPUTY CHAIRMAN : Now, we shall take up clause-by-clause consideration of the Bill. There are no amendments in Clauses 2 to 4. So, if the House so agrees, I shall put clauses 2 to 4 together to vote, in which case the result of the voting shall be taken as applicable to each clause, and the record should be reflected accordingly.

The House divided.

THE DEPUTY CHAIRMAN : Subject to correction :

Ayes : 160

Noes : 9

Ayes : **160**

Abrar Ahmed, Dr.

Agarwalla, Shri Parmeshwar Kumar

Agniraj, Shri S.

Ahluwalia, Shri S.S.

Akarapu, Shri Sudarshan

Alexander, Dr. P.C.

Apte, Shri B.P.

Apte, Shri Devdas

Ashwani Kumar, Shri

Azad, Shri Gandhi

Azad, Shri Ghulam Nabi

Azmi, Shri Abu Asim

Azmi, Maulana Obaidullah Khan

Bachani Lekhraj, Shri

Bagrodia, Shri Santosh

Bairagi, Shri Balkavi

Barot, Shri Jayantilal

Barupal, Shrimati Jamana Devi

Basha, Shri S.M. Laljan

Basu, Shri Nilotpal Bhandary,
Prof. Ram Deo Bhardwaj, Shri
Hansraj Bhardwaj, Shri Suresh
Bhattacharjee, Shri Karnendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila Bora,
Shri Indramoni Borgohain, Shri
Drupad Cariappa, Shrimati
Prema Chatterjee, Shri
Prasanta Chavan, Shri
Prithviraj Darda, Shri Vijay J.
Das, Dr. M.N. Dasgupta, Dr.
Biplab Deora, Shri Murli
Deshmukh, Shri Nana
Dhindsa, Shri Sukh Dev Singh
Durga, Shrimati N. P. Faguni
Ram, Dr. Fernandas, Shri
Oscar Gautam, Shri Sangh
Priya Gnanadesikan, Shri B.S.
Goenka, Shri R. P. Gowda,
Shri H.K. Javare Goyal, Shri
Vedprakash P. Hasan, Shri
Munawar Jaitley, Shri Arun

Joshi, Shri Kailash
Judev, Shri Dilip Singh
Kadar, Shri M.A.
Kalmadi, Shri Suresh
Karan Singh, Dr.
Kashyap, Shri Ramadhar
Kaur, Shrimati Gurcharan
Kaushal, Shri Swaraj
Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Sarla
Manhar, Shri Bhagatram
Manmohan Singh, Dr.
Maroo, Shri Ajay
Mattathil, Shri M.J. Varkey
Maya Singh, Shrimati

Meena, Shri Mootehand
Mehta, Shri Lalitbhai
Mishra, Shri Dina Nath
Mishra, Shri Kalraj
Misra, Shri Ranganath
Mukherjee, Shri Pranab
Mullana, Shri Faqir Chand
Murthy, Shri K.B. Krishna
Murthy, Shri M. Rajasekara
Naidu, Shri M. Venkaiah
Nandi Yellaiah, Shri
Nariman, Shri Fali S.
Natwar Singh. Shri K.
Nirupam, Shri Sanjay
Pachouri, Shri Suresh
Panda, Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal
Parmar, Shri Raju
Patel. Dr. A. K.
Patel, Shri Ahmed
Patel, Shri Keshubhai S.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.

Punj, Shri Balbir K.
Raghavan, Shri V.V.
Ral, Shrimati Kum Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal. Shri O.
Rajasekharan, Shri M. V.
Rajkumar, Or. Alladi P.
Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rurhandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaralingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shah id

Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R. B, S.
Vasan, Shri G. K.
Verma, Shri Vikram
Vijayaraghavan, Shri A.
Virumbi, Shri S. Viduthalai
Vora, Shri Motilal
Yadav, Chaudhary Harmohan Singh
Yadav, Prof. Ram Gopal
Zahidi, Shri Khan Ghufran

Noes 9

Chandran, Shri S.S.
Indira, Shrimati S.G.

Jothi, Shri N. Kamaraj, Shri

R. Khan, Shri.S.P.M. Syed

Maitreyan, Dr. V.

Narayanan, Shri P.G.

Perumal, Shri C. Selvan,

Shri Thanga Tamil

777e *motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.*

Clauses 2 to 4 were added to the Bill.

THE DEPUTY CHAIRMAN : Now. I shall put Clause 1. the Enacting Formula and the Title to vote.

777© House divided.

THE DEPUTY CHAIRMAN : Subject to correction:

Ayes : 160

Noes : 9

Ayes: **160**

Abrar Ahmed, Dr. Agarwalla, Shri

Parmeshwar Kumar Agniraj, Shri S.

Ahluwalia, Shri S.S. Akarapu, Shri

Sudarshan Alexander, Dr. P.C. Apte,

Shri B.P. Apte, Shri Devdas Ashwani

Kumar, Shri Azad, Shri Gandhi Azad,

Shri Ghulam Nabi

Azmi, Shri Abu Asim Azmi,
Maulana Obaidullah Khan
Baehani Lekhraj, Shri Bagrodia,
Shri Santosh Bairagi, Shri
Balkavi Barot, Shri Jayantilal
Barupal, Shrimati Jamana Devi
Basha, Shri S.M. Laljan Basu,
Shri Nilotpal Bhandary, Prof.
Ram Deo Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Kamendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila Bora, Shri
Indramoni Borgohain, Shri
Drupad Cariappa, Shrimati
Prema Chatterjee, Shri Prasanta
Chavan, Shri Prithviraj Darda,
Shri Vijay J. Das, Dr. M.N.
Dasgupta, Dr. Biplab Deora, Shri
Murli Deshmukh, Shri Nana
Dhindsa, Shri Sukh Dev Singh
Durga, Shrimati N. P. Faguni
Ram, Dr.

Fernandes, Shri Oscar
Gautam, Shri Sangh Priya
Gnanadesikan, Shri B.S.
Goenka, Shri R. P.
Gowda, Shri H.K. Javare
Goyal, Shri Vedprakash P.
Hasan, Shri Munawar
Jaitley, Shri Arun
Joshi, Shri Kailash
Judev, Shri Dilip Singh
Kadar, Shri M.A.
Kalmadi, Shri Suresh
Karan Singh, Dr.
Kashyap, Shri Ramadhar
Kaur, Shrimati Gurcharan
Kaushal, Shri Swaraj
Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh

Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Sarla
Manhar, Shri Bhagatram
Manmohan Singh, Dr. Maroo,
Shri Ajay Mattathil, Shri M.J.
Varkey Maya Singh, Shrimati
Meena, Shri Moolchand Mehta,
Shri Lalitbhai Mishra, Shri Dina
Nath Mishra, Shri Kalraj Misra,
Shri Ranganath Mukherjee, Shri
Pranab Mullana, Shri Faqir
Chand Murthy, Shri K.B. Krishna
Murthy, Shri M. Rajasekara
Naidu, Shri M. Venkaiah Nandi
Yellaiah, Shri Nariman, Shri Fali
S. Natwar Singh, Shri K.
Nirupam, Shri Sanjay Pachouri,
Shri Suresh Panda, Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal Parmar, Shri
Raju Patel, Dr. A. K. Patel, Shri
Ahmed

Patel, Shri Keshubhai S.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.
Punj, Shri Balbir K.
Raghavan, Shri V.V.
Rai, Shrimati Kum'Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal, Shri 0.
Rajasekharan, Shri M. V.
Rajkumar, Dr. Alladi P.
Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaralingam, Prof. M.

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Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R, B. S.
Vasan, Shri G. K.
Verma, Shri Vikram
Vijayaraghavan, Shri A.
Virumbi, Shri S. Viduthalai

Vora, Shri Motilal

Yadav, Chaudhary Harmohan Singh

Yadav, Prof. Ram Gopal Zahidi, Shri

Khan Ghufran

Noes: 9

Chandran, Shri S.S. Indira,

Shrimati S.G. Jothi, Shri N.

Kamaraj, Shri R. Khan, Shri

S.P.M. Syed Maitreyan, Dr.

V. Narayanan, Shri P.G.

Perumal, Shri C. Selvan,

Shri Thanga Tamil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI JASWANT SINGH : Madam, I move :

"That the Bill be passed."

THE DEPUTY CHAIRMAN : The question is :

"That the Bill be passed.'

The House divided.

THE DEPUTY CHAIRMAN : Subject to correction:

Ayes : 160

Noes : 9

Ayes: 160

Abrar Ahmed, Dr.
Agarwalla, Shri Parmeshwar Kumar
Agniraj, Shri S.
Ahluwalia, Shri S.S.
Akarapu, Shri Sudarshan
Alexander, Dr. P.C.
Apte, Shri B.P.
Apte, Shri Devdas
Ashwani Kumar, Shri
Azad, Shri Gandhi
Azad, Shri Ghulam Nabi
Azmi, Shri Abu Asim
Azmi, Maulana Obaidullah Khan
Bachani Lekhraj, Shri
Bagrodia, Shri Santosh
Bairagi, Shri Balkavi
Barot, Shri Jayantilal
Barupal, Shrimati Jamana Devi
Basha, Shri S.M. Laljan
Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Kamendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila
Bora, Shri Indramom

Borgohain, Shri Drupad
Cariappa, Shrimati Prema
Chatterjee, Shri Prasanta
Chavan, Shri Prithviraj Darda,
Shri Vijay J. Das, Dr. M.N.
Dasgupta, Dr. Biplab Deora,
Shri Murli Deshmukh, Shri
Nana Dhindsa, Shri Sukh Dev
Singh Durga, Shrimati N. P.
Faguni Ram, Dr. Fernandas,
Shri Oscar Gautam, Shri Sangh
Priya Gnanadesikan, Shri B.S.
Goenka, Shri R. P. Gowda, Shri
H.K. Javare Goyal, Shri
Vedprakash P. Hasan, Shri
Munawar Jaitley, Shri Arun
Joshi, Shri Kailash Judev, Shri
Dilip Singh Kadar, Shri M.A.
Kalmadi, Shri Suresh Karan
Singh, Dr. Kashyap, Shri
Ramadhar Kaur, Shrimati
Gurcharan Kaushal, Shri
Swaraj Kaushik, Shri Rama Shanker

Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Sarla
Manhar, Shri Bhagatram
Manmohan Singh, Dr.
Maroo, Shri Ajay
Mattathil, Shri M.J. Varkey
Maya Singh, Shrimati
Meena, Shri Moolchand
Mehta, Shri Lalitbhai
Mishra, Shri Dina Nath
Mishra, Shri Kalraj
Misra, Shri Ranganath
Mukherjee, Shri Pranab
Mullana, Shri Faqir Chand
Murthy, Shri K.B. Krishna
Murthy, Shri M. Rajasekara

Naidu, Shri M. Venkaiah
Nandi Yellaiah, Shri
Nariman, Shri Fali S.
Natwar Singh, Shri K.
Nirupam, Shri Sanjay
Pachouri, Shri Suresh
Panda. Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal
Parmar, Shri Raju
Patel, Dr. A. K.
Patel, Shri Ahmed
Patel, Shri Keshubhai S.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.
Punj, Shri Balbir K.
Raghavan, Shri V.V.
Rai, Shrimati Kum Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal, Shri O.
Rajasekharan, Shri M. V.
Rajkumar, Dr. Alladi P.
Ramachandraiah, Shri C.

Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaralingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika

Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R. B. S.
Vasan. Shri G. K.
Verma, Shri Vikram
Vijayaraghavan, Shri A.
Virumbi, Shri S. Viduthalai
Vora, Shri Motilal
Yadav, Chaudhary Harmohan Singh
Yadav, Prof. Ram Gopal
Zahidi, Shri Khan Ghufran

Noes 9

Chandran, Shri S.S. Indira, Shrimati
S.G. Jothi. Shri N. Kamaraj, Shri R.
Khan, Shri S.P.M. Syed Maitreyan,
Dr. V. Narayanan, Shri P.G. Perumal,
Shri C. Selvan, Shri Thanga Tamil

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

THE DEPUTY CHAIRMAN : Now, I will put the Constitution (96th Amendment) Bill, 2003 moved by Shri Arun Jaitley to vote.

The question is :

'That the Bill further to amend the Constitution of India, as passed by Lok Sabha, be taken into consideration."

THE DEPUTY CHAIRMAN : Subject to correction :

777© House divided

Ayes : 169

Noes : NIL

Ayea: **169**

Abrar Ahmed, Dr. Agarwalla, Shri Parmeshwar Kumar Agniraj, Shri S. Ahluwalia, Shri S.S. Akarapu, Shri Sudarshan Alexander, Dr. P.C. Apte, Shri B.P. Apte, Shri Devdas Ashwani Kumar, Shri Azad, Shri Gandhi Azad, Shri Ghulam Nabi Azmi, Shri Abu Asim Azmi, Maulana Obaidullah Khan Bachani Lekhraj, Shri Bagrodia, Shri Santosh Bairagi, Shri Balkavi Barot, Shri Jayantilal Barupal, Shrimati Jamana Devi

Basha, Shri S.M. Laljan
Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Karnendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila
Bora, Shri Indramoni
Borgohain, Shri Drupad
Cariappa, Shrimati Prema
Chandran, Shri S.S.
Chatterjee, Shri Prasanta
Chavan, Shri Prithviraj
Darda, Shri Vijay J.
Das. Dr. M.N.
Dasgupta, Dr. Bipiab
Deora, Shri Murli
Deshmukh, Shri Nana
Dhindsa, Shri Sukh Dev Singh
Durga, Shrimati N. P.
Faguni Ram, Dr.
Fernandas, Shri Oscar
Gautam, Shri Sangh Priya
Gnanadesikan, Shri B.S.
Goenka, Shri R. P.
Gowda, Shri H.K. Javare
Goyal, Shri Vedprakash P.

Hasan, Shri Munawar
Indira, Shrimati S.G.
Jaitley, Shri Arun
Joshi, Shri Kailash
Jothi, Shri N.
Judev, Shri Dilip Singh
Kadar, Shri M.A.
Kalmadi, Shri Suresh
Kamaraj, Shri R.
Karan Singh, Dr.
Kashyap, Shri Ramadhar
Kaur, Shrimati Gurcharan
Kaushal, Shri Swaraj
Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Khan, Shri S.P.M. Syed
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.

Maheshwari, Shrimati Sarla
Maltreyan, Dr. V. Manhar, Shri
Bhagatram Manmohan Singh,
Dr. Maroo, Shri Ajay Mattathil,
Shri M.J. Varkey Maya Singh,
Shrimati Meena, Shri
Moolchand Mehta, Shri
Lalitbhai Mishra, Shri Dina Nath
Mishra, Shri Kalraj Misra, Shri
Ranganath Mukherjee, Shri
Pranab Mullana, Shri Faqir
Chand Murthy, Shri K.B.
Krishna Murthy, Shri M.
Rajasekara Naidu^Shri M.
Venkaiah Nandi Yellaiah, Shri
Narayanan, Shri P.G. Nariman,
Shri Fali S. Natwar Singh, Shri
K. Nirupam, Shri Sanjay
Pachouri, Shri Suresh Panda,
Shri B. J. Pandey, Shrimati
Chandra Kala Parmar, Shri
Kripal Parmar, Shri Raju Patel,
Dr. A. K. Patel, Shri Ahmed

Patel, Shri Keshubhai S.
Perumal, Shri C.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.
Pun), Shri Balbir K.
Raghavan, Shri V.V.
Rai, Shrimati Kum Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal, Shri O.
Rajasekharan, Shri M. V.
Rajkumar, Dr. Alladi P.
Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan

Sankaralingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Selvan, Shri Thanga Tamil
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R. B. S.
Vasan, Shri G. K.
Verma, Shri Vikram

Vijayaraghavan, Shri A.

Virumbi, Shri S. Viduthalai

Vora, Shri Motilal

Yadav, Chaudhary Harmohan Singh

Yadav, Prof. Ram Gopal

Zahidi, Shri Khan Ghufran

Noes: **NIL**

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

THE DEPUTY CHAIRMAN : Now, we shall take up clause-by-clause consideration of Bill. In Clauses 2 to 5, there are no amendments. If the House so agrees, we will adopt the same procedure as earlier adopted.

The question is :

"That Clauses 2 to 5 stand part of the Bill."

The House divided.

THE DEPUTY CHAIRMAN : Subject to correction:

Ayes : 169

Noes: NIL

Ayes: **169**

Abrar Ahmed, Dr.

Agarwalla, Shri Parmeshwar Kumar

Agniraj, Shri S.

Ahluwalia, Shri S.S.

Akarapu, Shri Sudarshan

Alexander, Dr. P.C.

Apte, Shri B.P.

Apte, Shri Devdas

Ashwani Kumar, Shri

Azad, Shri Gandhi Azad, Shri
Ghulam Nabi Azmi, Shri Abu
Asim Azmi, Maulana Obaidullah
Khan Bachani Lekhraj, Shri
Bagrodia, Shri Santosh Bairagi,
Shri Balkavi Barot, Shri
Jayantilal Barupal, Shrimati
Jamana Devi Basha, Shri S.M.
Laljan Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Karnendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila Bora, Shri
Indramoni Borgohain, Shri
Drupad Cariappa, Shrimati
Prema Chandran, Shri S.S.
Chatterjee, Shri Prasanta
Chavan, Shri Prithviraj Darda,
Shri Vijay J. Das, Dr. M.N.
Dasgupta, Dr. Biplab Deora,
Shri Murli Deshmukh, Shri Nana

Dhindsa, Shri Sukh Dev Singh
Durga, Shrimati N. P.
Faguni Ram, Dr.
Fernandes, Shri Oscar
Gautam, Shri Sangh Priya
Gnanadesikan, Shri B.S.
Goenka, Shri R. P.
Gowda, Shri H.K. Javare
Goyal, Shri Vedprakash P.
Hasan, Shri Munawar
Indira, Shrimati S.G.
Jaitley, Shri Arun
Joshi, Shri Kailash
Jothi, Shri N.
Judev, Shri Dilip Singh
Kadar, Shri M.A.
Kalmadi, Shri Suresh
Kamaraj, Shri R.
Karan Singh, Dr.
Kashyap, Shri Ramadhar
Kaur, Shrimati Gurcharan
Kaushal, Shri Swaraj
Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Khan, Shri S.P.M. Syed
Kharshiing, Shri Robert

Kidwai, Dr. A.R. Kovind, Shri
Ram Nath Krishnamurthy K.,
Shri Jana Kshatriya, Prof. Alka
Balram Lalhmingliana, Shri Lath,
Shri Surendra Libra, Shri
Sukhdev Singh Mahendra
Prasad, Shri Maheshwari, Shri
P.K. Maheshwari, Shrimati Sarla
Maitreyan, Dr. V. Manhar, Shri
Bhagatram Manmohan Singh,
Dr. Maroo, Shri Ajay Mattathil,
Shri M.J. Varkey Maya Singh,
Shrimati Meena, Shri Moolchand
Mehta, Shri Lalitbhai Mishra,
Shri Dina Nath Mishra, Shri
Kalraj Misra, Shri Ranganath
Mukherjee, Shri Pranab Mullana,
Shri Faqir Chand Murthy, Shri
K.B. Krishna Murthy, Shri M.
Rajasekara Naidu, Shri M.
Venkaiah Nandi Yellaiah, Shri
Narayanan, Shri P.G. Nariman,
Shri Fali S.

Natwar Singh, Shri K.
Nirupam, Shri Sanjay
Pachouri, Shri Suresh
Panda, Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal
Parmar, Shri Raju
Patel, Dr. A. K.
Patel, Shri Ahmed
Patel, Shri Keshubhai S.
Perumal, Shri C.
Piilai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna
Poojary, Shri Janardhana
Pradhan, Shri Satish
Prasad, Shri Abhay Kant
Prasad, Shri Ravi Shankar
Premachandran, Shri N. K.
Punj, Shri Balbir K.
Raghavan, Shri V.V.
Rai, Shrimati Kum Kum
Rai, Shri Lajpat
Raikar, Shrimati Bimba
Rajagopal, Shri O.
Rajasekharan, Shri M. V.
Rajkumar, Dr. Alladi P.
Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana

Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar
Rawat, Shri Harish
Rebia, Shri Nabam
Redely, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaralingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Selvan, Shri Thanga Tamil
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din

Suri, Shri Lalit

Swaraj, Shrimati Sushma

Thakur, Shri Ekanath K.

Thirunavukkarasu, Shri C.P.

Trivedi, Shri Dinesh

Vanga Geetha, Shrimati

Varma, Prof. R. B. S.

Vasan, Shri G. K.

Verma, Shri Vikram

Vijayaraghavan, Shri A.

Virumbi, Shri S. Viduthalai

Vora, Shri Motilal

Yadav, Chaudhary Harmohan Singh

Yadav, Prof. Ram Gopal

Zahidi, Shri Khan Ghufran

Noes: **Nil**

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clauses 2 to 5 were added to the Bill. THE DEPUTY CHAIRMAN : Now, I shall put Clause 1, the Enacting Formula and the Title to vote.

The House divided. THE DEPUTY CHAIRMAN : Subject to correction:

Ayes : 169

Noes : Nil

Ayes: **169**

Abrar Ahmed, Dr.

Agarwalla, Shri Parmeshwar Kumar

Agniraj, Shri S.

Ahluwalia, Shri S.S. Akarapu,
Shri Sudarshan Alexander, Dr.
P.C. Apte, Shri B.P. Apte, Shri
Devdas Ashwani Kumar, Shri
Azad, Shri Gandhi Azad, Shri
Ghulam Nabi Azmi, Shri Abu
Asim Azmi, Maulana Obaidullah
Khan Bachani Lekhraj, Shri
Bagrodia, Shri Santosh Bairagi,
Shri Balkavi Barot, Shri
Jayantilal Barupal, Shrimati
Jamana Devi Basha, Shri S.M.
Laljan Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj
Bhardwaj, Shri Suresh
Bhattacharjee, Shri Kamendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila Bora, Shri
Indramoni Borgohain, Shri
Drupad Cariappa, Shrimati
Prema Chandran, Shri S.S.
Chatterjee, Shri Prasanta

Chavan, Shri Prithviraj Darda,
Shri Vijay J. Das, Dr. M.N.
Dasgupta, Dr. Bipiab Deora, Shri
Murli Deshmukh, Shri Nana
Dhindsa, Shri Sukh Dev Singh
Durga, Shrimati N. P. Faguni
Ram, Dr. Fernandes, Shri Oscar
Gautam, Shri Sangh Priya
Gnanadesikan, Shri B.S. Goenka,
Shri R. P. Gowda, Shri H.K.
Javare Goyal, Shri Vedprakash P.
Hasan, Shri Munawar Indira,
Shrimati S.G. Jaitley, Shri Arun
Joshi, Shri Kailash Jothi, Shri N.
Judev, Shri Dilip Singh Kadar,
Shri M.A. Kalmadi, Shri Suresh
Kamaraj, Shri R. Karan Singh, Dr.
Kashyap, Shri Ramadhar Kaur,
Shrimati Gurcharan Kaushal, Shri
Swaraj Kaushik, Shri Rama
Shanker

Keishing, Shri Rishang
Khan (Durru), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Khan, Shri S.P.M. Syed
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kotfnd, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Sarla
Maitreyan, Dr. V.
Manhar, Shri Bhagatram
Manmohan Singh, Dr.
Maroo, Shri Ajay
Mattathil, Shri M.J. Varkey
Maya Singh, Shrimati
Meena, Shri Moolchand
Mehta, Shri Lalitbhai
Mishra, Shri Dina Nath
Mishra, Shri Kalraj
Misra, Shri Ranganath
Mukherjee, Shri Pranab
Mullana, Shri Faqir Chand

Murthy, Shri K.B. Krishna Murthy, Shri M. Rajasekara Naidu, Shri M. Venkaiah Nandi Yellaiah, Shri Narayanan, Shri P.G. Nariman, Shri Fali S. Natwar Singh, Shri K. Nirupam, Shri Sanjay Pachouri, Shri Suresh Panda, Shri B. J. Pandey, Shrimati Chandra Kala Parmar, Shri Kripal Parmar, Shri Raju Patel, Dr. A. K. Patel, Shri Ahmed Patel, Shri Keshubhai S. Perumal, Shri C. Pillai, Shri K. Chandran Pillai, Shri Thennala G.^Balakrishna Poojary, Shri Janardhana Pradhan, Shri Satish Prasad, Shri Abhay Kant Prasad, Shri Ravi Shankar Premachandran, Shri N. K. Punj, Shri Balbir K. Raghavan, Shri V.V. Rai, Shrimati Kum Kum Rai, Shri Lajpat Raikar, Shrimati Bimba

Rajagopal, Shri O.
Rajasekharan, Shri M. V.
RajkUmar, Dr. Alladi P.
Ramachandraiah, Shri C.
Rao, Dr. Dasari Narayana
Rao, Shri K. Rama Mohana
Rao, Shri Yadlapati Venkat
Ravi, Shri Vayalar.
Rawat, Shri Harish
Rebia, Shri Nabam
Reddy, Shri Ravula Chandra Sekar
Roy, Shri Jibon
Roy Chowdhury, Shri Shankar
Rumandla Raamachandrayya, Shri
Samal, Shri Man Mohan
Sankaralingam, Prof. M.
Sarkar, Shri Matilal
Sarma, Dr. Arun Kumar
Selvan, Shri Thanga Tamil
Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Arun
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath

Singhal, Shri B.P.

Sinha, Shri Shatrughan

Sirigireddy, Shri Rama Muni Reddy

Sivasubramanian, Shri S.

Soni, Shrimati Ambika

Soz, Prof. Saif-ud-Din

Suri, Shri Lalit

Swaraj, Shrimati Sushma

Thakur, Shri Ekanath K.

Thirunavukkarasu, Shri C.P.

Trivedi, Shri Dinesh

Vanga Geetha, Shrimati

Varma, Prof. R. B. S.

Vasan, Shri G. K.

Verma, Shri Vikram

Vijayaraghavan, Shri A.

Virumbi, Shri S. Viduthalai

Vora, Shri Motilal

Yadav, Chaudhary Harmohan Singh

Yadav, Prof. Ram Gopal

Zahidi, Shri Khan Ghufran

Noes: **NIL**

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

Clause 1, the Enacting Formula and the Title were added to the Bill. SHRI ARUN JAITLEY: Madam, I beg to move:

"That the Bill be passed." THE DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

77?© *House divided.* THE DEPUTY CHAIRMAN:

Subject to correction Ayes : 169 Noes : NIL

Ayes: **169**

Abrar Ahmed, Dr.
Agarwalla, Shri Parmeshwar Kumar
Agniraj, Shri S.
Ahluwalia, Shri S.S.
Akarapu, Shri Sudarshan
Alexander, Dr. P.C.
Apte, Shri B.P.
Apte, Shri Devdas
Ashwani Kumar, Shri
Azad, Shri Gandhi
Azad, Shri Ghulam Nabi
Azmi, Shri Abu Asim
Azmi, Maulana Obaidullah Khan
Bachani Lekhraj, Shri
Bagrodia, Shri Santosh
Bairagi, Shri Balkavi
Barot, Shri Jayantilal
Barupal, Shrimati Jamana Devi
Basha, Shri S.M. Laljan
Basu, Shri Nilotpal
Bhandary, Prof. Ram Deo
Bhardwaj, Shri Hansraj

Bhardwaj, Shri Suresh
Bhattacharjee, Shri Karnendu
Bhattacharya, Shri Manoj
Bhendia, Shri Jhumuk Lai
Bohidar, Ms. Pramila Bora, Shri
Indramoni Borgohain. Shri
Drupad Cariappa, Shrimati
Prema Chandran, Shri S.S.
Chatterjee, Shri Prasanta
Chavan, Shri Prithviraj Darda,
Shri Vijay J. Das. Dr. M.N.
Dasgupta, Dr. Biplab Deora,
Shri Murii Deshmukh, Shri
Nana Dhindsa, Shri Sukh Dev
Singh Durga, Shrimati N. P.
Faguni Ram, Dr. Fernandas,
Shri Oscar Gautam, Shri Sangh
Priya Gnanadesikan, Shri B.S.
Goenka, Shri R. P. Gowda, Shri
H.K. Javare Goyal, Shri
Vedprakash P. Hasan, Shri
Munawar Indira, Shrimati S.G.
Jaitley, Shri Arun Joshi, Shri
Kailash

Jothi, Shri N.
Judev, Shri Dilip Singh
Kadar, Shri M.A.
Kalmadi, Shri Suresh
Kamaraj, Shri R.
Karan Singh, Dr.
Kashyap, Shri Ramadhar
Kaur, Shrimati Gurcharan
Kaushal, Shri Swaraj
Kaushik, Shri Rama Shanker
Keishing, Shri Rishang
Khan (Dunn), Shri Aimaduddin Ahmed
Khan, Shri K.M.
Khan, Shri K. Rahman
Khan, Shri S.P.M. Syed
Kharshiing, Shri Robert
Kidwai, Dr. A.R.
Kovind, Shri Ram Nath
Krishnamurthy K., Shri Jana
Kshatriya, Prof. Alka Balram
Lalhmingliana, Shri
Lath, Shri Surendra
Libra, Shri Sukhdev Singh
Mahendra Prasad, Shri
Maheshwari, Shri P.K.
Maheshwari, Shrimati Sarla
Maitreyan, Dr. V.
Mannar, Shri Bhagatram
Manmohan Singh, Dr.

Maroo, Shri Ajay
Mattathil, Shri M.J. Varkey
Maya Singh, Shrimati
Meena, Shri Moolchand
Mehta, Shri Lalitbhai
Mishra, Shri Dina Nath
Mishra, Shri Kalraj
Misra, Shri Ranganath
Mukherjee, Shri Pranab
Mullana, Shri Faqir Chand
Murthy, Shri K.B. Krishna
Murthy, Shri M. Rajasekara
Naidu, Shri M. Venkaiah
Nandi Yellaiah, Shri
Narayanan, Shri P.G.
Nariman, Shri Fali S.
Natwar Singh, Shri K.
Nirupam, Shri Sanjay
Pachouri, Shri Suresh
Panda, Shri B. J.
Pandey, Shrimati Chandra Kala
Parmar, Shri Kripal
Parmar, Shri Raju
Patel, Dr. A. K.
Patel, Shri Ahmed
Patel, Shri Keshubhai S.
Perumal, Shri C.
Pillai, Shri K. Chandran
Pillai, Shri Thennala G. Balakrishna

Poojary, Shri Janardhana Pradhan, Shri Satish Prasad, Shri Abhay Kant Prasad, Shri Ravi Shankar Premachandran, Shri N. K. Punj, Shri Balbir K. Raghavan, Shri V.V. Rai, Shrimati Kum Kum Rai, Shri Lajpat Raikar, Shrimati Bimba Rajagopal, Shri 0. Rajasekharan, Shri M. V. Rajkumar, Dr. Alladi P. Ramachandraiah, Shri C. Rao, Dr. Dasari Narayana Rao, Shri K. Rama Mohana Rao, Shri Yadlapati Venkat Ravi, Shri Vayalar Rawat, Shri Harish Rebia, Shri Nabam Reddy, Shri Ravula Chandra Sekar Roy, Shri Jibon Roy Chowdhury, Shri Shankar Rumandla Raamachandrayya, Shri Samal, Shri Man Mohan Sankaralingam, Prof. M. Sarkar, Shri Matilal Sarma, Dr. Arun Kumar Selvan, Shri Thanga Tamil

Sharda, Shrimati Savita
Sharma, Shri Anil
Sharmah, Shri Dwijendra Nath
Shourie, Shri Amn
Shunmugasundaram, Shri R.
Siddiqui, Shri Shahid
Singh, Shri Arjun
Singh, Shri Birabhadra
Singh, Shri Jaswant
Singh, Shri Raj Nath
Singhal, Shri B.P.
Sinha, Shri Shatrughan
Sirigireddy, Shri Rama Muni Reddy
Sivasubramanian, Shri S.
Soni, Shrimati Ambika
Soz, Prof. Saif-ud-Din
Suri, Shri Lalit
Swaraj, Shrimati Sushma
Thakur, Shri Ekanath K.
Thirunavukkarasu, Shri C.P.
Trivedi, Shri Dinesh
Vanga Geetha, Shrimati
Varma, Prof. R. B. S.
Vasan, Shri G. K.
Verma, Shri Vikram
Vijayaraghavan, Shri A.
Virumbi, Shri S. Viduthalai
Vora, Shri Motilal
Yadav, Chaudhary Harmohan Singh

Yadav, Prof. Ram Gopal

Zahidi, Shri Khan Ghufran

Noes: NIL

The motion was carried by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members present and voting.

THE DEPUTY CHAIRMAN: Now, we have another Bill in today's Business, the Fiscal Responsibility and Budget Management Bill, 2003. *...(Interruptions)...*

SHRI S. VIDUTHALAI VIRUMBI: Madam, we can discuss it tomorrow. *...(Interruptions)...*

THE DEPUTY CHAIRMAN: Two hours only. ...(Interruptions)... Two hours only; not more than that.

SHRI S. VIDUTHALAI VIRUMBI: Madam, we can discuss it tomorrow at 12 o'clock. *...(Interruptions)...*

THE DEPUTY CHAIRMAN: It can be discussed in two hours. Only two hours. Let us finish it. *...(Interruptions)...* Now, the presence of all of you is looking so nice in the House. Let us all sit and do it. *...(Interruptions)...* I can get the lobby closed; so, nobody can go!

SHRI GHULAM NABI AZAD (Jammu and Kashmir) : Let the House be cleared nowl

THE DEPUTY CHAIRMAN: I want the Bill to be cleared so that you are allowed to gol What is the sense of the House?

SHRI S. VIDUTHALAI^ VIRUMBI: Tomorrow, we will discuss it. *...(Interruptions)...*

SOME HON. MEMBERS: Tomorrow.

THE DEPUTY CHAIRMAN: Tomorrow, we will have only one hour.

SHRI S. VIDUTHALAI VIRUMBI: After Question Hour.

THE DEPUTY CHAIRMAN: If we take it tomorrow after Question Hour, there would be only one hour. So, you have to finish it in one hour.

There is a Calling Attention tomorrow. When are you going to sit? After 5 o'clock? Let us finish it today. *...(Interruptions)...*

SHRI NILOTPAL BASU: Madam, there was an agreement that... *(Interruptions)...*

SHRI B.P. SINGHAL (Uttar Pradesh) : Madam, we can sit today and finish it. *...(Interruptions)...*

SHRI SURESH KALMADI (Maharashtra) : Madam, let us discuss it tomorrow.

THE DEPUTY CHAIRMAN: In any case, Mr. Kalmadi, you are not going to sit when we discuss itl So, you might not object to it! *...(Interruptions)...* It is a serious Bill. Let us take it seriously. I am only asking you. ... *(Interruptions)...* Shall we have a division on it?

SHRI N. JOTHI: No, Madam. It should be unanimous.

SOME HON. MEMBERS: Madam, it is not listed.

THE DEPUTY CHAIRMAN: I think it is listed. *...(Interruptions)...* We have discussed it in the Business Advisory Committee. *...(Interruptions)...*

SHRI C. RAMACHANDRAIAH: Madam, there is no urgency. The second thing is, it is a very important thing. We should have sufficient time. Let us postpone it till the next session. *...(Interruptions)...*

THE DEPUTY CHAIRMAN: I am sitting here if they want to pass the Bill. मंत्री जी आपका क्या विचार हैं ?

THE MINISITER OF FINANCE AND COMPANY AFFAIRS (SHRI JASWANT SINGH): I have to pilot the Bill, Madam, but I can, or any of my Cabinet colleagues can, pilot the Bill in the House only if the House so desires, and the current mood of the House does not appear to be *a...(Interruptions)...*

THE DEPUTY CHAIRMAN: Provided you give a promise of dinner tonight, a good one! And make it personal!

THE MINISTER OF HEALTH AND FAMILY WELFARE AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRIMATI SUSHMA SWARAJ): I can promise, Madam. If dinner is the problem, then I can promise a dinner, Madam!

SHRI JASWANT SINGH: I leave it to the judgment of the House, Madam. The Fiscal Responsibility and Budget Management Bill is a Bill that

has gone through the entire process of inquiry, scrutiny and amendment. It was introduced in the Parliament in 2000. It went to the Standing Committee. It remained with the Standing Committee for two years, and in two years, the Standing Committee, after a thorough study, recommended several amendments, and 98-99 per cent of those amendments have been accepted by the Government. The Bill has been considered and adopted by the other House. Now, it is in its final stages of evolution, if I may put it like that. It is up to the House thereafter. It is not a Bill on which really any further debate, enquiry or scrutiny is merited, because it has gone through all the possible processes of parliamentary scrutiny for three years, more than three years. This House is sovereign. It has a right to further enquire into the issue. I can only recommend that because it deals with a very important aspect and it has been covered with Fiscal Responsibility and Budget Management Bill. It is not that by enacting, we will achieve anything. No, but it is an enabling provision. Madam, I leave it to the judgement of the House to take it up whenever they wish to. It appears that they are not keen to take it up today. Alright, not today, you can take it up tomorrow. *...(Interruptions)...*

THE DEPUTY CHAIRMAN: Can we take it up at 5 o' clock tomorrow? *...(Interruptions)...*

SHRI SURESH PACHOURI (Madhya Pradesh) : Next Session. *...(Interruptions)...*

SHRI JASWANT SINGH: Madam, I leave it to the judgement of the House.

THE DEPUTY CHAIRMAN: I get the sense of the House that everybody, after doing the hard work of pressing the division buttons for two Constitutional Amendment Bills, wants to have a rest. So, I adjourn the House till 11 o' clock tomorrow.

The House then adjourned at forty seven minutes past five of the clock till eleven of the clock on Friday, the 9th May, 2003.